

In The Matter Of:

APPEAL HEARING of DR. LEENA VARUGHESE,

MEETING

November 14, 2011

RAYVID REPORTING SERVICE, INC.

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MEETING - Vol. 1

APPEAL HEARING of DR. LEENA VARUGHESE

TO THE MEDICAL HOUSE STAFF

AFFAIRS COMMITTEE

MOUNT SINAI HOSPITAL

6:00 p.m.

November 14, 2011

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<p>1 LEENA VARUGHESE</p> <p>2</p> <p>3 PANEL:</p> <p>4</p> <p>5 DR. STEVEN WEINFELD, Chair</p> <p>6 DR. GILA LEITER</p> <p>7 DR. MICHAEL MARIN</p> <p>8 DR. HAROLD BRONHEIM</p> <p>9 DR. MARISSA RAYMOND-FLESCH</p> <p>10 DR. MELISSA ROCCO</p> <p>11 FOR THE PANEL:</p> <p>12</p> <p>13 MICHAEL G. MacDONALD, ESQ.</p> <p>14 Mount Sinai General Counsel</p> <p>15</p> <p>16 FOR THE DEPARTMENT:</p> <p>17</p> <p>18 DR. CARLOS CORDONE-CARDO</p> <p>19 DR. ADOLFO FIRPA</p> <p>20</p> <p>21 RORY McEVOY, ESQ.</p> <p>22 Edwards Wildman Palmer LLP</p> <p>23 750 Lexington Avenue</p> <p>24 New York, NY 10022</p> <p>25 FOR THE APPELANT:</p> <p>26 DR. LEENA VARUGHESE, Pro Se</p> <p>27 DR. RAJIT MALLIH</p>	<p>1 LEENA VARUGHESE</p> <p>2 Department of Obstetrics Gynecology and</p> <p>3 Reproductive Science.</p> <p>4 Dr. Michael Marin, Professor and</p> <p>5 Chairman Department of Surgery.</p> <p>6 Dr. Harold Bronheim, Clinical</p> <p>7 Professor of Psychiatry and Clinical</p> <p>8 Professor of Medicine.</p> <p>9 Dr. Marissa Raymond-Flesch, PGY 4</p> <p>10 department of medicine in pediatrics and</p> <p>11 Dr. Melissa Rocco, Chief Resident,</p> <p>12 department of anesthesiology.</p> <p>13 Also present are Michael Macdonald,</p> <p>14 General Counsel School of Medicine,</p> <p>15 serving as counsel to the committee, Ms.</p> <p>16 Karen Jones, also of the general counsel's</p> <p>17 office, who is also assisting Mr. McDonald</p> <p>18 and the committee.</p> <p>19 Dr. Carlos Cordone-Cardo and</p> <p>20 Dr. Adolfo Firpa, Mr. Rory McEvoy of the</p> <p>21 law firm of Edwards, Wilman & Palmer, who</p> <p>22 is assisting of the Department of</p> <p>23 Pathology in it's presentation.</p> <p>24 Ms. Marina Lowy, of the general</p> <p>25 counsel's offices, also assisting the</p>
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<p>1 LEENA VARUGHESE</p> <p>2</p> <p>3 P R O C E E D I N G S</p> <p>4</p> <p>5 DR. WEINFELD: I would like to</p> <p>6 call the proceedings to order.</p> <p>7 This is the appeal of Dr. Leena</p> <p>8 Varughese of the decision dated September</p> <p>9 21, 2011 of Dr. Cardone-Corda and</p> <p>10 Dr. Firpa to suspend and terminate</p> <p>11 Dr. Varughese from the pathology residency</p> <p>12 program of the Mount Sinai School of</p> <p>13 Medicine.</p> <p>14 Dr. Varghese's appeal was perfected</p> <p>15 in her letter dated September 28, 2011 to</p> <p>16 Dr. Michael Harris, President of the</p> <p>17 Medical Board, which was received on</p> <p>18 September 30, 2011.</p> <p>19 My name is Steven Weinfeld, I'm</p> <p>20 serving as the Chairman of the House Staff</p> <p>21 Affairs Committee that has been convened</p> <p>22 to consider and decide Dr. Varghese's</p> <p>23 appeal.</p> <p>24 I would like to introduce the other</p> <p>25 members of the Committee, Dr. Gila Leiter,</p>	<p>1 LEENA VARUGHESE</p> <p>2 Department of Pathology, Dr. Leena</p> <p>3 Varughese and Dr. Rajit Mallih.</p> <p>4 DR. MALLIH: I am Dr. Leena</p> <p>5 Varghese's friend, I am a practicing</p> <p>6 pathologist also.</p> <p>7 DR. WEINFELD: Dr. Varughese, are</p> <p>8 you going to have counsel with you today</p> <p>9 or no?</p> <p>10 DR. VARUGHESE: No.</p> <p>11 DR. WEINFELD: So, just for the</p> <p>12 record, that Dr. Varughese is entitled</p> <p>13 to have an attorney present, has chosen</p> <p>14 not to appear with counsel today.</p> <p>15 Procedures that will govern this</p> <p>16 appeal are set forth in the house staff</p> <p>17 manual and include the following, Drs.</p> <p>18 Cordone-Carda and Dr. Firpa may present</p> <p>19 relative evidence and witnesses in</p> <p>20 presenting the department's position.</p> <p>21 They may question Dr. Varughese and</p> <p>22 her witnesses.</p> <p>23 Similarly, Dr. Varughese may</p> <p>24 present relevant evidence and witnesses on</p> <p>25 her behalf, and may question Drs.</p>

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<p>1 LEENA VARUGHESE</p> <p>2 Cordone-Cardo and Firpa and the witnesses</p> <p>3 who supported the Department of</p> <p>4 Pathology's decision.</p> <p>5 B, it the scope of the hearing will</p> <p>6 be limited to determine whether there is</p> <p>7 sufficient evidence to determine that the</p> <p>8 adverse action taken by the Department of</p> <p>9 Pathology was not arbitrary and</p> <p>10 capricious.</p> <p>11 All testimony at the hearing will</p> <p>12 be under oath, and a transcript of the</p> <p>13 hearing is being made.</p> <p>14 The Rules of Evidence do not apply</p> <p>15 and the decision of the Committee will be</p> <p>16 based on a preponderance of the evidence.</p> <p>17 I would like to stress this is a</p> <p>18 peer review proceeding and members of the</p> <p>19 Committee may take an active role in</p> <p>20 questioning the witnesses.</p> <p>21 In that connection the role of</p> <p>22 attorneys is limited to providing advice</p> <p>23 and counsel to Dr. Varughese and the</p> <p>24 department as the case may be and</p> <p>25 addressing the members of the Committee.</p>	<p>1 LEENA VARUGHESE</p> <p>2 DR. WEINFELD: And.</p> <p>3 MR. McEVOY: Yes.</p> <p>4 DR. VARUGHESE: Actually, I do</p> <p>5 now.</p> <p>6 DR. WEINFELD: Yes.</p> <p>7 DR. VARUGHESE: So is</p> <p>8 Dr. Cordone-Cardo and Dr. Firpa</p> <p>9 intending to defend themselves, or is</p> <p>10 the lawyer speaking for them?</p> <p>11 DR. WEINFELD: The Department</p> <p>12 will be making a presentation, but</p> <p>13 the -- as I just said, the lawyers are</p> <p>14 not presenting evidence, so they will</p> <p>15 provide advice to the members of the</p> <p>16 Department.</p> <p>17 MR. McEVOY: The only thing I was</p> <p>18 going to say was that I would ask the</p> <p>19 committee to accept as an Exhibit the</p> <p>20 section of the house staff manual</p> <p>21 dealing with disciplinary action, which</p> <p>22 I don't think should be any problem with</p> <p>23 because I understand that Dr. Varughese</p> <p>24 has submitted that as one of her</p> <p>25 proposed exhibits, and secondly, that</p>
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<p>1 LEENA VARUGHESE</p> <p>2 The role of the representatives may</p> <p>3 not include the presentation of evidence</p> <p>4 or the examination or cross-examination of</p> <p>5 witnesses.</p> <p>6 The committee may in its discretion</p> <p>7 further define, expand or limit the role</p> <p>8 of any representatives as we go along.</p> <p>9 In addition, the committee may make</p> <p>10 such additional rules as it deems</p> <p>11 necessary to assure a prompt, fair and</p> <p>12 expeditious handling of this appeal.</p> <p>13 Members of the Committee have</p> <p>14 reviewed the September 21, 2011</p> <p>15 termination letter from Drs. Cordone-Cardo</p> <p>16 and Firpa to Dr. Varughese.</p> <p>17 Before we turn to Drs.</p> <p>18 Cordone-Carda and Firpa for their</p> <p>19 presentation, then to Dr. Varughese for</p> <p>20 her presentation, I would like to ask Dr.</p> <p>21 Varughese and the Department whether there</p> <p>22 are any preliminary matters they would</p> <p>23 like to raise before we proceed further.</p> <p>24 Dr. Varughese?</p> <p>25 DR. VARUGHESE: No.</p>	<p>1 LEENA VARUGHESE</p> <p>2 the committee take into evidence Dr.</p> <p>3 Varughese' residence contract for the</p> <p>4 PGY 4 year.</p> <p>5 DR. WEINFELD: Is that something</p> <p>6 we don't have copies of currently?</p> <p>7 MR. MacDONALD: Well, I think --</p> <p>8 actually I think on the house staff</p> <p>9 manual we can almost take that by</p> <p>10 judicial notice.</p> <p>11 If you want to mark it as a</p> <p>12 Committee Exhibit 1 and Committee Exhibit</p> <p>13 2, why don't we do that, and do we need to</p> <p>14 do that physically to do that?</p> <p>15 MR. MacDONALD: I think those</p> <p>16 documents -- why don't we do that; let's</p> <p>17 be sure that we mark the excerpt or</p> <p>18 maybe the entire house staff manual, the</p> <p>19 excerpt and the disciplinary proceedings</p> <p>20 as Committee Exhibit 1 and the house</p> <p>21 staff contract as Committee Exhibit 2.</p> <p>22 DR. WEINFELD: So we will get</p> <p>23 those marked into evidence.</p> <p>24 I would like to start by asking</p> <p>25 Drs. Cordone-Cardo and Dr. Firpa to make</p>

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<p style="text-align: right;">Page 10</p> <p>1 LEENA VARUGHESE</p> <p>2 their presentations on behalf of the</p> <p>3 Department of Pathology.</p> <p>4 DR. CARDONE-CORDO: Dr. Firpa</p> <p>5 will make the presentation.</p> <p>6 DR. WEINFELD: Are we going to</p> <p>7 swear him in?</p> <p>8 MR. MacDONALD: I think what we</p> <p>9 should do is to swear Dr. Varughese, Dr.</p> <p>10 Cordone-Cardo and Dr. Firpa all at the</p> <p>11 same time so we don't have to interrupt</p> <p>12 the flow of the proceedings.</p> <p>13 Would you do that, Mr. Reporter.</p> <p>14</p> <p>15 A L E E N A V A R U G H E S E, A D O</p> <p>16 L F O F I R P O and C A R L O</p> <p>17 S C O R D O N E - C A R D O, were</p> <p>18 called as witnesses, having been duly</p> <p>19 sworn by the Notary Public, were examined</p> <p>20 and testified as follows:</p> <p>21</p> <p>22 DR. WEINFELD: So all three are</p> <p>23 sworn now, good. So the Department will</p> <p>24 proceed.</p> <p>25 DR. FIRPA: Mr. Chairman, ladies</p>	<p style="text-align: right;">Page 12</p> <p>1 LEENA VARUGHESE</p> <p>2 but a carefully weighed and deliberated</p> <p>3 decision.</p> <p>4 The decision made after major and</p> <p>5 repeated efforts to address her concerns</p> <p>6 about being able to satisfy all her</p> <p>7 residency requirements to qualify for the</p> <p>8 Board examination in 2012 and in response</p> <p>9 to her persistent accusations of unfair</p> <p>10 treatment by everyone whenever she was</p> <p>11 expected to be accountable for her conduct</p> <p>12 and decisions.</p> <p>13 Despite all efforts, she was</p> <p>14 insubordinate toward her chief residents,</p> <p>15 the program director, and unprofessional</p> <p>16 in her dealings with others and towards</p> <p>17 her responsibilities to the faculty and</p> <p>18 the staff.</p> <p>19 She lacked insight about her</p> <p>20 problematic behavior, how damaging they</p> <p>21 were to others and how disruptive it was</p> <p>22 to the program operations.</p> <p>23 Repeatedly she demonstrated her</p> <p>24 lack of integrity toward her professional</p> <p>25 responsibilities and poor sense of moral</p>
<p style="text-align: right;">Page 11</p> <p>1 LEENA VARUGHESE</p> <p>2 and gentlemen, members of the Committee,</p> <p>3 good evening.</p> <p>4 My name is Adolfo Firpa</p> <p>5 Bettencourt, I am the Director of</p> <p>6 Pathology Educational Activities as of the</p> <p>7 1st of July of 2011.</p> <p>8 When I joined Mount Sinai my</p> <p>9 primary duty is to oversee accredited</p> <p>10 pathology training programs, both</p> <p>11 residency and fellowships, and together</p> <p>12 with Dr. Pat Lento, the Pathology</p> <p>13 Residency Program Director, to assess,</p> <p>14 monitor and guide compliance with all</p> <p>15 ACGME accreditation requirements as</p> <p>16 specified in the Residency Review</p> <p>17 Committee for Pathology guidelines.</p> <p>18 And the directives of the Mount</p> <p>19 Sinai's institutional GME office and other</p> <p>20 institutional policies.</p> <p>21 At this hearing we will demonstrate</p> <p>22 unequivocally that the decision to</p> <p>23 summarily suspend and terminate Dr.</p> <p>24 Varughese from the pathology residency</p> <p>25 program was not arbitrary, nor capricious,</p>	<p style="text-align: right;">Page 13</p> <p>1 LEENA VARUGHESE</p> <p>2 judgment.</p> <p>3 The documentation we provided and</p> <p>4 the testimony of the witnesses will</p> <p>5 demonstrate to you that Dr. Varughese was</p> <p>6 unable to make any progress to grow into a</p> <p>7 responsible medical professional as</p> <p>8 expected of any accredited training</p> <p>9 program.</p> <p>10 The decision to terminate her from</p> <p>11 residency was nothing more than the</p> <p>12 ultimate result of her poor performance,</p> <p>13 misconduct, insubordination, lack of</p> <p>14 professionalism and integrity.</p> <p>15 The decision to terminate Dr.</p> <p>16 Varughese is authorized by the house staff</p> <p>17 manual section on disciplinary action that</p> <p>18 provides that the Department Chair may</p> <p>19 terminate for cause a house officer who</p> <p>20 fails to demonstrate an acceptable level</p> <p>21 of professional competence, clinical</p> <p>22 judgment in the treatment of patients, or</p> <p>23 professionalism or who engages in any</p> <p>24 activities that are a threat to the</p> <p>25 welfare or safety of patients, employees,</p>

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<p style="text-align: right;">Page 14</p> <p>1 LEENA VARUGHESE</p> <p>2 other physicians, or the hospital itself.</p> <p>3 Dr. Varughese also violated her</p> <p>4 residence contract which requires her to</p> <p>5 comply faithfully with and be subject to</p> <p>6 the policies, rules and regulations of the</p> <p>7 hospital.</p> <p>8 The decision to summarily suspend</p> <p>9 Dr. Varughese was based on the judgment of</p> <p>10 the Chair of the Department, the GME</p> <p>11 office and me that her continued presence</p> <p>12 at the hospital would pose a risk to Mount</p> <p>13 Sinai and it's patients.</p> <p>14 The events documented in the</p> <p>15 materials we provided to you and the</p> <p>16 experiences that the witness will describe</p> <p>17 will demonstrate Dr. Varughese' poor</p> <p>18 performance, persistent misconduct and a</p> <p>19 pattern of escalating insubordination.</p> <p>20 Lack of professionalism and her</p> <p>21 lack of personal and professional</p> <p>22 integrity which rapidly deteriorated</p> <p>23 between July 15th to the middle of</p> <p>24 September when this difficult, but</p> <p>25 unavoidable and necessary decision was</p>	<p style="text-align: right;">Page 16</p> <p>1 LEENA VARUGHESE</p> <p>2 she may represent a threat to self and to</p> <p>3 others and decided to keep her under</p> <p>4 minimal stressful conditions within the</p> <p>5 hospital for the rest of the day to be</p> <p>6 able to observe her until we make</p> <p>7 arrangement to have her seen by hospital</p> <p>8 wellness or student health wellness.</p> <p>9 DR. BRONHEIM: Can you describe</p> <p>10 her appearance that day?</p> <p>11 DR. FIRPA: Yes.</p> <p>12 Earlier in the morning I received</p> <p>13 an e-mail from the Chief Residents that</p> <p>14 they were concerned about her behavior</p> <p>15 that morning, she had come in late, showed</p> <p>16 a blank affect, she was practically</p> <p>17 unresponsive and just sitting there.</p> <p>18 The perception of the residents was</p> <p>19 that she may be undergoing a major crisis</p> <p>20 and that she may -- they were afraid that</p> <p>21 this could precipitate some type of</p> <p>22 radical behavior.</p> <p>23 Having been notified of that and</p> <p>24 being familiar with the policies of safety</p> <p>25 in the workplace, I immediately</p>
<p style="text-align: right;">Page 15</p> <p>1 LEENA VARUGHESE</p> <p>2 made.</p> <p>3 She was summarily terminated in</p> <p>4 fairness to other residents, faculty and</p> <p>5 staff, in an attempt to restore a sense of</p> <p>6 normal to the complex environment in which</p> <p>7 educational activities take place in</p> <p>8 pathology and for the very safety of the</p> <p>9 operations of the Department as they</p> <p>10 relate to patient services.</p> <p>11 On September 15th, Dr. Varughese</p> <p>12 told me that she could not perform her</p> <p>13 work, was unable to concentrate, felt</p> <p>14 overwhelmed and was gradually losing</p> <p>15 control and needed to take a leave of</p> <p>16 absence.</p> <p>17 Out of concern for her well-being</p> <p>18 as well as the hospital and it's patients,</p> <p>19 I instructed residents and supervisors to</p> <p>20 excuse her from her regular</p> <p>21 responsibilities and consulted with her</p> <p>22 rotation supervisor to arrange for a light</p> <p>23 work schedule for the day.</p> <p>24 We were so concerned by her</p> <p>25 appearance that day that we concluded that</p>	<p style="text-align: right;">Page 17</p> <p>1 LEENA VARUGHESE</p> <p>2 communicated with the Human Resources</p> <p>3 Department, the office of GME, the</p> <p>4 Department Chair and others, about the</p> <p>5 situation.</p> <p>6 Called and requested somebody to</p> <p>7 come and assess the situation until I was</p> <p>8 able to arrive.</p> <p>9 Upon my arrival I found her</p> <p>10 literally quiet, sitting at her desk,</p> <p>11 looking at some slides.</p> <p>12 I asked her to talk to her in</p> <p>13 private. We proceeded to the student</p> <p>14 lounge and I asked her bluntly what's</p> <p>15 wrong?</p> <p>16 She first said nothing. Finally I</p> <p>17 insisted that I know something is wrong,</p> <p>18 please tell me, I know you now, what seems</p> <p>19 to be the problem?</p> <p>20 And then she relayed I cannot take</p> <p>21 it anymore, I feel very bad, I am unable</p> <p>22 to work, I cannot concentrate, I have not</p> <p>23 prepared a presentation that I have been</p> <p>24 asked to prepare many times, not because I</p> <p>25 really don't want to, but because I feel</p>

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<p>1 LEENA VARUGHESE</p> <p>2 unable to concentrate and do any work.</p> <p>3 And I really feel overwhelmed and I</p> <p>4 think I need to take a leave of absence,</p> <p>5 go away for a while.</p> <p>6 Even during her narration, she</p> <p>7 exhibited behavior which made me suspect</p> <p>8 that this may be an organic episode, for</p> <p>9 moments she'll stop her narrative, she'll</p> <p>10 flicker her eyes, as if having a petit mal</p> <p>11 seizure then will continue and captured</p> <p>12 her train of thought.</p> <p>13 I was really, really very</p> <p>14 concerned.</p> <p>15 I instructed her to calm down,</p> <p>16 don't be stressed, I'll make arrangements</p> <p>17 for you to be excused for all duties of</p> <p>18 the day.</p> <p>19 I talked to the Chief Residents and</p> <p>20 instructed them not to bother her, and</p> <p>21 excuse her from all the activity.</p> <p>22 I went and found her rotation</p> <p>23 supervisor, Dr. Peterson, discussed my</p> <p>24 impressions, he shared with me that he had</p> <p>25 been observing some deterioration also,</p>	<p>1 LEENA VARUGHESE</p> <p>2 afternoon after the initial incident in</p> <p>3 the morning.</p> <p>4 Despite my explicit instructions of</p> <p>5 not to come to work, she continued to come</p> <p>6 and meet with her rotation supervisor in</p> <p>7 private without any other work</p> <p>8 responsibilities.</p> <p>9 Her lack of insight about her</p> <p>10 unstable conduct, her apparent lack of</p> <p>11 understanding of the potential risks she</p> <p>12 posed to others after having acknowledged</p> <p>13 her inability to concentrate and being</p> <p>14 unable to perform at a minimal level of</p> <p>15 competence are the factors that we</p> <p>16 considered to represent a risk to other</p> <p>17 persons in the work environment and</p> <p>18 ultimately to the safety of patients and</p> <p>19 the quality of services provided by our</p> <p>20 Department.</p> <p>21 These were the the ultimate reasons</p> <p>22 that led to her summary suspension on</p> <p>23 September 21, 2011.</p> <p>24 The Pathology Department at Mount</p> <p>25 Sinai, as you may well know, is the</p>
Page 19	Page 21
<p>1 LEENA VARUGHESE</p> <p>2 but didn't feel that it had been so</p> <p>3 serious, but it was not a surprise.</p> <p>4 So we agreed to put a very light</p> <p>5 workload for the day, so that she'll be</p> <p>6 able to remain under observation.</p> <p>7 With that, and I then proceeded to</p> <p>8 find out what was the necessary steps to</p> <p>9 take to arrange for a leave of absence,</p> <p>10 what are the requirements, what were the</p> <p>11 procedures, and that I left leaving her</p> <p>12 behind under those instructions.</p> <p>13 Out of concern for Dr. Varughese as</p> <p>14 well as the hospital, I instructed the</p> <p>15 residents and supervisor to excuse her</p> <p>16 from regular responsibilities and</p> <p>17 consulted with her rotation supervisor I</p> <p>18 just described.</p> <p>19 Despite my explicit instructions --</p> <p>20 the following morning I formally advised</p> <p>21 her not to report back to work until she</p> <p>22 has secured a doctor's note and had</p> <p>23 completed the required application for her</p> <p>24 leave of absence as she was instructed by</p> <p>25 Ms. Patel on the 15th at noon in the early</p>	<p>1 LEENA VARUGHESE</p> <p>2 largest in any single comparable academic</p> <p>3 institution in New York City.</p> <p>4 The surgical pathology case volume</p> <p>5 is over 150,000 specimens per year, and</p> <p>6 our clinical laboratory service processing</p> <p>7 is comparable to a commercial laboratory</p> <p>8 in volume and complexity.</p> <p>9 Educational pathology programs</p> <p>10 include the residency and specialty</p> <p>11 fellowships in cytology, gastrointestinal</p> <p>12 pathology, gynecologic pathology, liver</p> <p>13 pathology, molecular genetics, surgical</p> <p>14 pathology, as well as elective rotations</p> <p>15 to visiting students and pathology</p> <p>16 rotations, to residents in other specialty</p> <p>17 training programs here at Mount Sinai.</p> <p>18 The Mount Sinai pathology residency</p> <p>19 offers three options, clinical pathology</p> <p>20 only program for three years or the</p> <p>21 combined anatomic clinical pathology</p> <p>22 program over four years.</p> <p>23 Most of our residents choose the</p> <p>24 combined program, as did Dr. Varughese.</p> <p>25 The program proceeds in a series of</p>

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<p style="text-align: right;">Page 22</p> <p>1 LEENA VARUGHESE</p> <p>2 sequential rotations for periods of time</p> <p>3 proscribed by the ACGME which provide the</p> <p>4 ability to sit for the Board specialty</p> <p>5 examination.</p> <p>6 The rotations provide educational</p> <p>7 experiences for the resident to acquire</p> <p>8 knowledge and skills necessary to grow</p> <p>9 professionally into a competent,</p> <p>10 independent general pathologist in</p> <p>11 practice.</p> <p>12 The combined program requires a</p> <p>13 minimum of 18 months rotations in each of</p> <p>14 the AP and CP components, the AP component</p> <p>15 requires a total of 11 months of autopsy</p> <p>16 pathology and at least 12 months of</p> <p>17 surgical pathology, training experience.</p> <p>18 Autopsy education requires each</p> <p>19 resident to perform and report at least on</p> <p>20 50 autopsies.</p> <p>21 To participate in gross organ</p> <p>22 reviews, an informal autopsy presentation</p> <p>23 by other members of the Department, the</p> <p>24 program includes time exposures to</p> <p>25 forensic, pediatric, perinatal and similar</p>	<p style="text-align: right;">Page 24</p> <p>1 LEENA VARUGHESE</p> <p>2 disciplinary actions for nonattendance to</p> <p>3 this core educational activities.</p> <p>4 Residents are evaluated according</p> <p>5 to the six ACGME core competencies which</p> <p>6 are patient care, medical knowledge,</p> <p>7 practice based learning and improvement,</p> <p>8 interpersonal and communication skills,</p> <p>9 professionalism and system based practice.</p> <p>10 In each of those domains,</p> <p>11 particularly, in practice based learning</p> <p>12 and improvement and interpersonal</p> <p>13 communications skills and professionalism,</p> <p>14 Dr. Varughese' performance demonstrated</p> <p>15 consistently lack of growth and</p> <p>16 development in acquiring the necessary</p> <p>17 skills to perform at a level of competence</p> <p>18 consistent not even with a level of a PGY</p> <p>19 3.</p> <p>20 Residents evaluations are provided</p> <p>21 by faculty at the end of each rotation,</p> <p>22 using electronic program called New</p> <p>23 Innovations, which is available to all</p> <p>24 residency programs in the institution.</p> <p>25 The evaluations are reviewed by the</p>
<p style="text-align: right;">Page 23</p> <p>1 LEENA VARUGHESE</p> <p>2 autopsy, the scheduled rotations fulfill</p> <p>3 all the rotation requirements of the</p> <p>4 ACGME.</p> <p>5 The clinical pathology component at</p> <p>6 Mount Sinai includes all the required</p> <p>7 instructional experiences for</p> <p>8 accreditation by the ACGME in all the</p> <p>9 areas, microbiology, immunopathology,</p> <p>10 blood bank and transfusion medicine,</p> <p>11 chemical pathology, cytogenetics,</p> <p>12 hematology, coagulation, toxicology,</p> <p>13 medical microoscopy, molecular biology,</p> <p>14 techniques and other advanced diagnostic</p> <p>15 techniques as they become available.</p> <p>16 Rotating residents are assigned</p> <p>17 specific tasks in areas of responsibility</p> <p>18 compatible with the level of training and</p> <p>19 the most strict level of competency in</p> <p>20 performing of the duties.</p> <p>21 The ACGME also requires programs to</p> <p>22 establish didactic component of core</p> <p>23 competencies and educational experiences</p> <p>24 and an accredited program must maintain</p> <p>25 records and have in place mechanisms for</p>	<p style="text-align: right;">Page 25</p> <p>1 LEENA VARUGHESE</p> <p>2 residents with their faculty advisor and</p> <p>3 program director semi-annually.</p> <p>4 In addition, residents are</p> <p>5 evaluated in 360 degree fashion by</p> <p>6 technical ancillary staff and surgical</p> <p>7 pathology technical staff, including</p> <p>8 physician assistants throughout the year.</p> <p>9 Dr. Varughese was a senior PGY 4</p> <p>10 resident in the combined APC pathology</p> <p>11 program. She graduated from UMDNJ New</p> <p>12 Jersey Medical School in May 2008 and was</p> <p>13 admitted and started residency with us in</p> <p>14 July 1 of 2008.</p> <p>15 Her initial performance in the</p> <p>16 program was shaky, as evidenced by her</p> <p>17 evaluations, but gradually improved</p> <p>18 sufficiently to a mostly satisfactory</p> <p>19 level and she was promoted through her</p> <p>20 third year in the program.</p> <p>21 While a PGY 3 in December 2010 Dr.</p> <p>22 Varughese was placed on academic</p> <p>23 advisement.</p> <p>24 Dr. Varughese failed to comply with</p> <p>25 the plan of actions in the academic</p>

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<p style="text-align: right;">Page 26</p> <p>1 LEENA VARUGHESE</p> <p>2 advisement, and in July 2011 she was</p> <p>3 issued a final warning by Dr. Carlos</p> <p>4 Cordone-Cardo, recently appointed new</p> <p>5 Chairman of the Department.</p> <p>6 The warnings stemmed from her</p> <p>7 failure to fulfill the requirements of the</p> <p>8 academic advisement and her behaviors at</p> <p>9 the follow-up meeting on May 24th with the</p> <p>10 Chairman and the Department administrator.</p> <p>11 These are included as Department</p> <p>12 Exhibit 3 in the manual handed to you.</p> <p>13 And the details set forth in the</p> <p>14 final warning are in Exhibit 2 of the</p> <p>15 exhibits.</p> <p>16 MR. MacDONALD: Excuse me, shall</p> <p>17 we mark -- these are the exhibits of the</p> <p>18 Department in this binder which have</p> <p>19 been passed out to everybody.</p> <p>20 Can we -- you are going to submit</p> <p>21 all of these into the record?</p> <p>22 MR. McEVOY: Yes.</p> <p>23 MR. MacDONALD: So can we mark</p> <p>24 these as you submit them as departments</p> <p>25 Exhibits 1 through 17 for our record.</p>	<p style="text-align: right;">Page 28</p> <p>1 LEENA VARUGHESE</p> <p>2 requirements to sit for the pathology</p> <p>3 Board exam in 2012.</p> <p>4 And her desire to replace her</p> <p>5 elective rotation through GI pathology</p> <p>6 with one in dermatopathology.</p> <p>7 I finally suggested we should</p> <p>8 discuss the issues related to her final</p> <p>9 warning, her problems with professionalism</p> <p>10 and any other issues related to her</p> <p>11 current situation.</p> <p>12 Initially she bluntly refused to</p> <p>13 discuss any of these issues.</p> <p>14 She told me quite clearly and</p> <p>15 explicitly that she could not discuss any</p> <p>16 of these items because she was pursuing</p> <p>17 legal action and that I had to talk with</p> <p>18 her lawyer about any of them.</p> <p>19 I had to call the GME office on</p> <p>20 three occasions during the session</p> <p>21 requesting advice, given her refusal to</p> <p>22 talk, and finally gave her two options as</p> <p>23 instructed by Mr. Paul Johnson.</p> <p>24 One, either accept to discuss these</p> <p>25 issues which are the underlying reason for</p>
<p style="text-align: right;">Page 27</p> <p>1 LEENA VARUGHESE</p> <p>2 These will be submitted to the</p> <p>3 record as you make your presentation and</p> <p>4 these will be called Department's Exhibits</p> <p>5 1 through 17.</p> <p>6 MR. McEVOY: The only other thing</p> <p>7 is that Exhibit 1 is the letter from</p> <p>8 Drs. Cordone-Cardo and Dr. Firpa, the</p> <p>9 suspense and termination letter which I</p> <p>10 think you already made reference to</p> <p>11 earlier, so that's Exhibit 1, so.</p> <p>12 MR. MacDONALD: Let's keep the</p> <p>13 numerical order of the exhibits.</p> <p>14 DR. FIRPA: The final warning was</p> <p>15 delivered to Dr. Varughese by Dr.</p> <p>16 Cordone-Cardo on July 15, 2011.</p> <p>17 Dr. Varughese' job performance</p> <p>18 after the final warning did not improve or</p> <p>19 did so marginally.</p> <p>20 On our first meeting responding to</p> <p>21 the final warning on August 2, 2011 I</p> <p>22 emphasized to her that we should consider</p> <p>23 this a new beginning.</p> <p>24 She talked about all her fears and</p> <p>25 concerns of not being able to satisfy</p>	<p style="text-align: right;">Page 29</p> <p>1 LEENA VARUGHESE</p> <p>2 the final warning, or two, refuse to do so</p> <p>3 and incur another violation that will</p> <p>4 require further disciplinary action,</p> <p>5 including the possibility of her dismissal</p> <p>6 from the program.</p> <p>7 After a long pause she finally</p> <p>8 accepted to talk and we agreed to meet</p> <p>9 bi-weekly on Tuesday mornings at 9:00 over</p> <p>10 three months for a total of seven 50</p> <p>11 minute sessions about professionalism,</p> <p>12 concepts, challenges and its demands on</p> <p>13 medical professionals.</p> <p>14 I explained to her that during the</p> <p>15 first week of each rotation she would meet</p> <p>16 with her rotation supervisor to review the</p> <p>17 specific competence level objectives and</p> <p>18 to make sure that she understood the</p> <p>19 specific responsibilities assigned to her</p> <p>20 during the rotation.</p> <p>21 I also told her that at the end of</p> <p>22 the rotation I will obtain feedback on her</p> <p>23 performance.</p> <p>24 Particularly on each level of the</p> <p>25 competence areas, paying attention to</p>

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<p style="text-align: right;">Page 30</p> <p>1 LEENA VARUGHESE</p> <p>2 improvement in her professional behavior.</p> <p>3 I made it clear that she should</p> <p>4 become familiar with the six ACGME</p> <p>5 competence based objectives and explained</p> <p>6 to her that these would provide a neutral</p> <p>7 ground to objectively discuss her growth</p> <p>8 in each competence over the three months</p> <p>9 of the final warning, and her upcoming</p> <p>10 rotations.</p> <p>11 Our shared goal was to put the past</p> <p>12 behind, move forward beyond the three</p> <p>13 months ahead so she could proceed to</p> <p>14 complete her training.</p> <p>15 I agreed to look into her program</p> <p>16 of rotations to ascertain her status and</p> <p>17 meeting requirements to make the Board's</p> <p>18 exam in 2012 and to explore the</p> <p>19 possibility of switching her elective GI</p> <p>20 rotations for one in pathology.</p> <p>21 At the end of the session I gave</p> <p>22 her a printed copy of the ACGME</p> <p>23 requirements for pathology residency</p> <p>24 programs and asked her to review them,</p> <p>25 paying particular attention to requirement</p>	<p style="text-align: right;">Page 32</p> <p>1 LEENA VARUGHESE</p> <p>2 Dr. Najfeld's complaining about her lack</p> <p>3 of interest in the work she was assigned</p> <p>4 to do in the laboratory, her consistent</p> <p>5 late arrivals to work, her early</p> <p>6 departures, her inability to follow</p> <p>7 instructions, her lack of insight and</p> <p>8 understanding of the basic principles of</p> <p>9 even preparing a case for presentation,</p> <p>10 her absence from the lab, her</p> <p>11 disrespectful attitude toward her and her</p> <p>12 staff and many other troublesome behaviors</p> <p>13 over this two week rotation and deficient</p> <p>14 medical knowledge.</p> <p>15 Worse and most disheartening to</p> <p>16 everyone was her indifference to efforts</p> <p>17 made by Dr. Najfeld herself and her staff</p> <p>18 to help her recover from her dismal</p> <p>19 performance to the point of even bluntly</p> <p>20 refusing to return to the laboratory to</p> <p>21 work with her and redo a poorly prepared</p> <p>22 presentation that was scheduled for the</p> <p>23 next day.</p> <p>24 While still rotating through the</p> <p>25 cytogenetics laboratory she started to</p>
<p style="text-align: right;">Page 31</p> <p>1 LEENA VARUGHESE</p> <p>2 number 5 on professionalism.</p> <p>3 My assignment to her was simple,</p> <p>4 think about what it really means to be a</p> <p>5 professional.</p> <p>6 Over the following days and weeks</p> <p>7 identify professional behaviors in your</p> <p>8 working environment and observe examples</p> <p>9 of behaviors that she'll consider</p> <p>10 unprofessional.</p> <p>11 The objective was to begin an open</p> <p>12 discussion about professionalism and the</p> <p>13 challenges it might pose to medical</p> <p>14 professionals as they perform their</p> <p>15 responsibilities.</p> <p>16 She agreed to put the past behind</p> <p>17 and move forward toward completion of her</p> <p>18 residency program and the specialty Boards</p> <p>19 in 2012.</p> <p>20 Despite an apparent good start, her</p> <p>21 inability to behave professionally and</p> <p>22 responsibly started to surface during her</p> <p>23 rotation through tumor cytogenetics and</p> <p>24 Dr. Vesna Najfeld's laboratory.</p> <p>25 I received calls and e-mails from</p>	<p style="text-align: right;">Page 33</p> <p>1 LEENA VARUGHESE</p> <p>2 have problems, she continued to have</p> <p>3 problems with the Chief Residents, being</p> <p>4 insubordinate, questioning every action</p> <p>5 and requesting -- and any requests to</p> <p>6 comply with established procedures on</p> <p>7 policies that were recently agreed upon</p> <p>8 and implemented as required by the ACGME.</p> <p>9 She refused to cover frozen section</p> <p>10 service when a fellow resident called in</p> <p>11 sick, then tried to avoid covering</p> <p>12 surgical pathology service on another</p> <p>13 occasion of the same resident's illness.</p> <p>14 She ignored pages, e-mails and even</p> <p>15 an on occasion offered explanations and</p> <p>16 excuses for her failures to respond that</p> <p>17 were interpreted as questionable reasoning</p> <p>18 such as well, not to respond means that I</p> <p>19 agree to cover.</p> <p>20 Or not having -- I don't have to</p> <p>21 respond to e-mails that just state facts</p> <p>22 and don't ask questions.</p> <p>23 As I promised her to do during the</p> <p>24 initial meeting, I asked Dr. Lento to</p> <p>25 ascertain that she'll be able to satisfy</p>

<p style="text-align: right;">Page 34</p> <p>1 LEENA VARUGHESE</p> <p>2 requirements to take the pathology Board</p> <p>3 exam in 2012, as she wished.</p> <p>4 We found that she had only</p> <p>5 performed 24 of her required 50 autopsies</p> <p>6 over three years of training.</p> <p>7 Dr. Lento immediately contacted the</p> <p>8 office of the Medical Examiner to arrange</p> <p>9 that during her rotation there she'll be</p> <p>10 able to participate in at least one</p> <p>11 autopsy per day so that she could meet the</p> <p>12 requirement.</p> <p>13 We reviewed the total rotation</p> <p>14 hours to the various clinical pathology</p> <p>15 service she had completed and was on</p> <p>16 schedule over the following months.</p> <p>17 To our satisfaction we were</p> <p>18 confident that she would be able to</p> <p>19 fulfill the required 18 months in the</p> <p>20 required areas specified by the ACGME</p> <p>21 review and required to be eligible to sit</p> <p>22 for the board exam.</p> <p>23 I informed her of these efforts and</p> <p>24 each time she complained of being treated</p> <p>25 unfairly, insisting that other residents</p>	<p style="text-align: right;">Page 36</p> <p>1 LEENA VARUGHESE</p> <p>2 special consideration which was granted,</p> <p>3 but despite all efforts and consideration</p> <p>4 it was finally decided that it was not</p> <p>5 possible to allow her to drop the GI</p> <p>6 elective, which was turned out to have</p> <p>7 been requested by her at the time the</p> <p>8 schedule was prepared.</p> <p>9 Repeatedly she refused to accept</p> <p>10 the denial to her request to drop the</p> <p>11 elective in GI, violating the established</p> <p>12 policy and protocol and creating problems</p> <p>13 with attendings and residents, even making</p> <p>14 claims of events and actions that could</p> <p>15 not be substantiated, or even confirmed</p> <p>16 but by the very same individuals that she</p> <p>17 had indicated could witness and support</p> <p>18 her statements.</p> <p>19 Problems with her behavior</p> <p>20 continued and even escalated, she was</p> <p>21 unwilling to prepare and make a</p> <p>22 presentation on the topic of her choice as</p> <p>23 penalty for being absent for more than 20</p> <p>24 percent of the required mandatory core</p> <p>25 morning conferences over the preceding</p>
<p style="text-align: right;">Page 35</p> <p>1 LEENA VARUGHESE</p> <p>2 had more elective time, or more rotation</p> <p>3 time in areas or another, that the</p> <p>4 rotations she had received were not</p> <p>5 providing enough experience for her to</p> <p>6 feel competently prepared for making the</p> <p>7 board exam.</p> <p>8 Given the possibility that she may</p> <p>9 not have completed all requirements by the</p> <p>10 deadline to apply for the Board</p> <p>11 examination, and anticipating that she may</p> <p>12 have to pay a late application penalty</p> <p>13 fee, I consulted with our Chairman, Dr.</p> <p>14 Cordone-Cardo, and suggested to him to</p> <p>15 help her by paying the penalty fee, and he</p> <p>16 agreed to do so.</p> <p>17 I personally contacted Dr. Miriam</p> <p>18 Berchay and ascertained that if she would</p> <p>19 be able to change the rotation schedule</p> <p>20 and it will be possible and acceptable for</p> <p>21 her to drop the GI elective she could</p> <p>22 rotate through the dermatopathology</p> <p>23 instead of GI.</p> <p>24 I reminded her of the procedure and</p> <p>25 personally requested that she be given</p>	<p style="text-align: right;">Page 37</p> <p>1 LEENA VARUGHESE</p> <p>2 training block.</p> <p>3 She questioned the validity of</p> <p>4 having the requirement as part of our</p> <p>5 departmental policy.</p> <p>6 She misrepresented information and</p> <p>7 regarding attendance to other educational</p> <p>8 activities and conferences, both here and</p> <p>9 at the VA.</p> <p>10 She fought fought all the way and</p> <p>11 by every means not to comply with this</p> <p>12 minor task of a senior resident, twice she</p> <p>13 called in sick when she had been scheduled</p> <p>14 and finally made her presentation and</p> <p>15 finally on another day just came in late,</p> <p>16 sat through the presentation of a fellow</p> <p>17 scheduled to speak before her, and as he</p> <p>18 was finishing his presentation, just stood</p> <p>19 up and walked out without a word.</p> <p>20 On the 17th of August we had our</p> <p>21 second meeting under the final warning,</p> <p>22 Shema Patel, Department Administrator,</p> <p>23 witnessed the meeting.</p> <p>24 The meeting went surprisingly well</p> <p>25 after all the events that transpired just</p>

<p style="text-align: right;">Page 38</p> <p>1 LEENA VARUGHESE</p> <p>2 before, she had no objections to have Ms.</p> <p>3 Patel present.</p> <p>4 We discussed in detail the problems</p> <p>5 with her performance as a resident and the</p> <p>6 numerous e-mail exchanges related to</p> <p>7 request to acknowledge minutes of the</p> <p>8 residents meeting, the new policies and to</p> <p>9 abide by the new policies questioning</p> <p>10 authority and changes in the overall</p> <p>11 operation of the residency with new</p> <p>12 control that did not seem to make sense</p> <p>13 and appeared unjustified.</p> <p>14 I made it clear that the policies</p> <p>15 were available on the G drive and</p> <p>16 available for her review at any time. She</p> <p>17 said that she had already signed</p> <p>18 acknowledged receipt of the minutes and</p> <p>19 policies on the 15th as required by the</p> <p>20 Chief Residents.</p> <p>21 I explained to her that the</p> <p>22 policies were to fulfill accreditation</p> <p>23 requirements and standards.</p> <p>24 We agreed that it would provide</p> <p>25 objective documentation of any issues we</p>	<p style="text-align: right;">Page 40</p> <p>1 LEENA VARUGHESE</p> <p>2 excellent web reference at some website on</p> <p>3 professionalism in pathology practice that</p> <p>4 she felt everybody should read as part of</p> <p>5 her training.</p> <p>6 I asked her to e-mail the link and</p> <p>7 that I will read it and consider placing</p> <p>8 it in the program description.</p> <p>9 Once again, swspte an apparent</p> <p>10 improvement in her attitude at the meeting</p> <p>11 on 8/17, and some positive and promising</p> <p>12 interactiona with the Chief Residents on</p> <p>13 the following days, problems resurfaced</p> <p>14 once again over an apparen</p> <p>15 miinterpretatio TAEUGS of a scheduled</p> <p>16 call during the Memorial Day weekend which</p> <p>17 when ultimately clarified, but led to the</p> <p>18 resurgence of Dr. Varughese' determination</p> <p>19 to drop out of the elective GI rotation</p> <p>20 and replace it with one through the</p> <p>21 dermatopathology.</p> <p>22 Given her strong argument and</p> <p>23 apparent genuine desire to get additional</p> <p>24 exposure to dermatopathology, one of the</p> <p>25 Chief Residents arranged for early morning</p>
<p style="text-align: right;">Page 39</p> <p>1 LEENA VARUGHESE</p> <p>2 have discussed and she agreed to bring</p> <p>3 documentation to support any explanations</p> <p>4 she had given to explain the circumstances</p> <p>5 of her conduct as described that morning.</p> <p>6 She said that she was aware that</p> <p>7 this disciplinary action may culminate in</p> <p>8 some further action and that she would</p> <p>9 appreciate knowing as soon as possible</p> <p>10 what was being considered for her so that</p> <p>11 she could act accordingly.</p> <p>12 She also claimed that she was never</p> <p>13 given a fair chance to resolve events that</p> <p>14 led to her present disciplinary action and</p> <p>15 that she had written the reflection and</p> <p>16 had fulfilled all the requirements.</p> <p>17 She claimed that Dr. Cardone-Cor</p> <p>18 notifying her of the disciplinary action</p> <p>19 at this time was confusing and she was not</p> <p>20 clear what she was supposed to do or</p> <p>21 accomplish.</p> <p>22 I handed her a printed paper on</p> <p>23 professionalism to discuss our next</p> <p>24 session.</p> <p>25 She mentioned having found an</p>	<p style="text-align: right;">Page 41</p> <p>1 LEENA VARUGHESE</p> <p>2 sign up of cases with Dr. Phelps, the</p> <p>3 Director of the Dermatology Division who</p> <p>4 is at work early and signs up cases</p> <p>5 between 6:00 and 8:00 in the morning.</p> <p>6 He agreed to offer her access to</p> <p>7 this period to discuss cases with her.</p> <p>8 She was also offered to have access</p> <p>9 to additional private learning material</p> <p>10 that this chief resident had obtained on</p> <p>11 dermatopathology, given that is her</p> <p>12 personal interest as a specialty.</p> <p>13 In an effort to be helpful Dr.</p> <p>14 Varughese was repeatedly informed that her</p> <p>15 request for dropping GI elective had been</p> <p>16 denied, that she was expected to report to</p> <p>17 rotation as scheduled.</p> <p>18 Nevertheless, on September 1st she</p> <p>19 approached Dr. Harpaz directly and once</p> <p>20 again began another cycle of discussions</p> <p>21 and arguments about not doing the elective</p> <p>22 GI rotation.</p> <p>23 By now she claimed to have already</p> <p>24 made her own arrangements to attend a</p> <p>25 review conference on pathology in Florida,</p>

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<p style="text-align: right;">Page 42</p> <p>1 LEENA VARUGHESE</p> <p>2 and just informed everyone that she'll not</p> <p>3 be available to do the GI rotation and</p> <p>4 she'll find someone to cover for her.</p> <p>5 Period.</p> <p>6 Her third and final warning meeting</p> <p>7 had been scheduled for Wednesday, the 7th</p> <p>8 September at 7:00 a.m. at her own request,</p> <p>9 but she did not show up.</p> <p>10 At around 11:45 that day she sent</p> <p>11 an e-mail apologizing for missing the</p> <p>12 appointment and claiming that she had</p> <p>13 tried to call me several times, but the</p> <p>14 call had not gone through and was</p> <p>15 repeatedly dropped.</p> <p>16 She requested to meet the following</p> <p>17 week in the afternoon.</p> <p>18 I replied to her and reminded her</p> <p>19 that as part of starting a new rotation</p> <p>20 through hemopathology she had to meet with</p> <p>21 her supervisor and review the competence</p> <p>22 based objectives as per the ACGME</p> <p>23 requirements, and be clear about what she</p> <p>24 was expected to do during her rotation.</p> <p>25 I also told her that requests to</p>	<p style="text-align: right;">Page 44</p> <p>1 LEENA VARUGHESE</p> <p>2 rotation, having and obtaining the</p> <p>3 agreement of both attendings.</p> <p>4 At no time did I guarantee to her</p> <p>5 that the change will proceed.</p> <p>6 Much less, by my decision alone.</p> <p>7 Eventually she brought the issue,</p> <p>8 on September 15th emerged the need for the</p> <p>9 leave of absence.</p> <p>10 She was instructed to contact Dr.</p> <p>11 Hughes of the wellness committee which she</p> <p>12 has repeatedly failed to do, initially</p> <p>13 claiming that her interaction in the past</p> <p>14 with the wellness committee had been</p> <p>15 unfruitful and really a waste of time.</p> <p>16 Ms. Patel and Dr. Varughese --</p> <p>17 later on as over the following days she</p> <p>18 continued to report to work when she was</p> <p>19 told not to, to process for her leave of</p> <p>20 absence.</p> <p>21 She was encountered by Ms. Patel in</p> <p>22 the morning near the Starbucks buying</p> <p>23 coffee and she reported that she was on</p> <p>24 the way to work.</p> <p>25 She was reminded that she was not</p>
<p style="text-align: right;">Page 43</p> <p>1 LEENA VARUGHESE</p> <p>2 drop out of the elective GI rotation was</p> <p>3 officially denied, and any arguments</p> <p>4 concerning this issue should be over.</p> <p>5 She was expected to report to the</p> <p>6 service as scheduled.</p> <p>7 Later that afternoon she sent an</p> <p>8 e-mail raising all kind of issues about</p> <p>9 the unfairness of the final decision.</p> <p>10 Around 2:30 p.m. she came into my</p> <p>11 office and a very gradually escalating</p> <p>12 tone and practically yelling at me towards</p> <p>13 the end, claimed that she was once again</p> <p>14 being treated unfairly and insisting that</p> <p>15 I had committed to make it happen for her,</p> <p>16 since I had mentioned that it may be</p> <p>17 possible when we first talked about it as</p> <p>18 a possibility.</p> <p>19 I reminded her that at all times I</p> <p>20 had made her fully aware that there was a</p> <p>21 process to follow and that I would only</p> <p>22 intervene on her behalf, the final</p> <p>23 decision would have to depend on the</p> <p>24 feasibility of others on the schedule,</p> <p>25 finding a replacement for her during the</p>	<p style="text-align: right;">Page 45</p> <p>1 LEENA VARUGHESE</p> <p>2 supposed to come to work and was invited</p> <p>3 to come over to Ms. Patel's office at the</p> <p>4 President's chamber.</p> <p>5 Ms. Patel then called the Office of</p> <p>6 Human Resources for advisement how to</p> <p>7 proceed, and me.</p> <p>8 For a short time she stepped out of</p> <p>9 the office, for 5 minutes, and on her</p> <p>10 return found Dr. Varughese going over her</p> <p>11 personal private confidential files in her</p> <p>12 desk.</p> <p>13 When addressed and asked what she</p> <p>14 was doing, she initially denied that she</p> <p>15 had been doing anything, eventually told</p> <p>16 her to chill out, continued to dismiss as</p> <p>17 a totally trivial event and eventually was</p> <p>18 convinced to go and meet with the Human</p> <p>19 Resources with representatives of the</p> <p>20 Human Resources at the present time.</p> <p>21 And Mr. Paul Jones, also from the</p> <p>22 GME office.</p> <p>23 Given a few -- these are just some</p> <p>24 examples of her poor performance and mixed</p> <p>25 conduct which the witnesses will relate in</p>

12 (Pages 42 to 45)

<p style="text-align: right;">Page 46</p> <p>1 LEENA VARUGHESE</p> <p>2 more detail as we call upon them to</p> <p>3 describe to you their experiences.</p> <p>4 Dr. Varughese, I already said at</p> <p>5 the beginning the conditions that led to</p> <p>6 our termination -- to the termination</p> <p>7 process.</p> <p>8 It was not an easy decision, it was</p> <p>9 over the concerns of the risks her</p> <p>10 presence represented to patient's</p> <p>11 well-being and the capacity of working</p> <p>12 effectively.</p> <p>13 On the 21st she showed up to work,</p> <p>14 she sat at her desk, she refused to leave,</p> <p>15 she had been scheduled for a meeting that</p> <p>16 day in the afternoon to discuss the terms</p> <p>17 of her future in the Department.</p> <p>18 At that point when addressed by Ms.</p> <p>19 Patel and myself, she said that she'll not</p> <p>20 leave until she had something in writing</p> <p>21 instructing her to leave the premises.</p> <p>22 At that point we called upon the</p> <p>23 Office of Human Resources, Dr. Hughes and</p> <p>24 the office of the GME who convened</p> <p>25 immediately and tried to make a decision</p>	<p style="text-align: right;">Page 48</p> <p>1 LEENA VARUGHESE</p> <p>2 experience and review the documents that</p> <p>3 we have provided for you, we are confident</p> <p>4 that you will find that the decision to</p> <p>5 terminate Dr. Varughese was, indeed, not</p> <p>6 arbitrary or capricious in any way.</p> <p>7 And that responded to the best</p> <p>8 interests of the patients and the</p> <p>9 hospital.</p> <p>10 That's the end of my statement.</p> <p>11 DR. WEINFELD: So we are going to</p> <p>12 call some witnesses?</p> <p>13 MR. MacDONALD: Well, I think Dr.</p> <p>14 Varughese may have an opportunity to ask</p> <p>15 questions and the Committee may also ask</p> <p>16 questions directly to clarify anything</p> <p>17 that Dr. Firpa may have said.</p> <p>18 MR. McEVOY: What I would ask in</p> <p>19 addition to the committee asking Dr.</p> <p>20 Firpa's statement as the opening</p> <p>21 statement of the Department, that they</p> <p>22 also accept his statement to the extent</p> <p>23 it articulates his personal experiences</p> <p>24 as his testimony so as the need to avoid</p> <p>25 calling him again as a witness and then</p>
<p style="text-align: right;">Page 47</p> <p>1 LEENA VARUGHESE</p> <p>2 how to proceed.</p> <p>3 After some deliberation over some</p> <p>4 hours it was decided to proceed with her</p> <p>5 summary termination, she was then invited</p> <p>6 into Dr. Carlos Cordone-Cardo's office</p> <p>7 where she was handed the letter of</p> <p>8 termination and instructed to review the</p> <p>9 final paragraph which specified her rights</p> <p>10 under the law and the policies and</p> <p>11 regulations of the hospital.</p> <p>12 During the whole process she</p> <p>13 insisted in having -- in arguing some of</p> <p>14 the content, in bringing other information</p> <p>15 that was irrelevant to the issue.</p> <p>16 Repeatedly she has to be reminded</p> <p>17 this is not an argument, this is not a</p> <p>18 discussion, this is a final decision,</p> <p>19 these are your rights, read them carefully</p> <p>20 and you have a given amount of time to</p> <p>21 request an appeal.</p> <p>22 Those were the events that led to</p> <p>23 the termination.</p> <p>24 I shall conclude by saying that</p> <p>25 after you will hear all the witnesses'</p>	<p style="text-align: right;">Page 49</p> <p>1 LEENA VARUGHESE</p> <p>2 Dr. Varughese, as Mr. MacDonald</p> <p>3 suggests, if she wants to ask Dr. Firpa</p> <p>4 questions about the things to which he</p> <p>5 testified, then that would I think</p> <p>6 expedite the proceeding.</p> <p>7 DR. WEINFELD: That sounds very</p> <p>8 reasonable, as long as Dr. Firpa is</p> <p>9 available for questioning.</p> <p>10 MR. MacDONALD: Dr. Varughese may</p> <p>11 have questions herself to ask or the</p> <p>12 committee may have questions, also.</p> <p>13 DR. WEINFELD: So we want to</p> <p>14 allow for questions now or do we want to</p> <p>15 have Dr. Varughese give her</p> <p>16 presentation?</p> <p>17 MR. MacDONALD: I think what</p> <p>18 should happen, Dr. Weinfeld, is the</p> <p>19 Department should make it's full</p> <p>20 presentation with its witnesses, but as</p> <p>21 each witness testifies I think Dr.</p> <p>22 Varughese should have the opportunity to</p> <p>23 ask questions while the witnesses are</p> <p>24 present.</p> <p>25 DR. WEINFELD: Do you want to go</p>

13 (Pages 46 to 49)

<p style="text-align: right;">Page 50</p> <p>1 LEENA VARUGHESE</p> <p>2 ahead and ask Dr. Dr. Firpa any</p> <p>3 questions as theoretically the first</p> <p>4 witness?</p> <p>5 DR. VARUGHESE: Sure, yeah, I</p> <p>6 think I will.</p> <p>7</p> <p>8 CROSS-EXAMINATION BY DR. VARUGHESE:</p> <p>9</p> <p>10 Q So you said that on September 15</p> <p>11 you thought my appearance and behavior was very</p> <p>12 unusual or radical? Like what do you mean by</p> <p>13 that?</p> <p>14 A It was very concerning in terms</p> <p>15 of your mental status.</p> <p>16 Q How so?</p> <p>17 A Well, you exhibited total</p> <p>18 flattened affect, very slow responses,</p> <p>19 proceeded to give a very chaotic statement</p> <p>20 about being unable to cope, being overwhelmed</p> <p>21 by your work, not being able to concentrate as</p> <p>22 the reasons for your persistent refusals to</p> <p>23 prepare the presentation that you were required</p> <p>24 to do.</p> <p>25 During the presentation you even</p>	<p style="text-align: right;">Page 52</p> <p>1 LEENA VARUGHESE</p> <p>2 light work day so that you can remain in</p> <p>3 premises until we find out how to proceed about</p> <p>4 your consensual request to procure a leave of</p> <p>5 absence.</p> <p>6 Q Well, I think I did state to you</p> <p>7 that I was fine and I wanted to be at work and</p> <p>8 I was going to be able to cope with whatever it</p> <p>9 was, but my specific concern was the rash of</p> <p>10 e-mails that was being sent to me about</p> <p>11 presentation, about acknowledgment of policies</p> <p>12 which did not even go into effect until the</p> <p>13 15th which was halfway through period 2.</p> <p>14 A That's not a question, Dr.</p> <p>15 Varughese. What is it that you want me to</p> <p>16 respond to?</p> <p>17 Q I am just wondering why you're</p> <p>18 falsifying what actually happened?</p> <p>19 How are you so certain that's</p> <p>20 what happened?</p> <p>21 A Well, that's what happened, I</p> <p>22 was there, there were witnesses all around us,</p> <p>23 it took place over -- other than the few</p> <p>24 minutes we had in private discussion,</p> <p>25 everything else was witnessed before and</p>
<p style="text-align: right;">Page 51</p> <p>1 LEENA VARUGHESE</p> <p>2 paused at one point, flickerred your eyes,</p> <p>3 which were to me indicative or reminiscent of a</p> <p>4 petit mal seizure, then recapture your line of</p> <p>5 thinking and continued.</p> <p>6 Q Okay, so when you were speaking</p> <p>7 to me, wasn't Ms. Patel also there?</p> <p>8 A No, the first session in the</p> <p>9 morning when I first came we were alone, then I</p> <p>10 returned with Ms. Patel.</p> <p>11 Q You didn't initially arrive with</p> <p>12 Ms. Patel, or it was within like half an hour</p> <p>13 of these two incidents?</p> <p>14 A I arrived early in the morning.</p> <p>15 As soon as I was able to reach the place, I</p> <p>16 found you in that condition.</p> <p>17 I called you to a private</p> <p>18 session in the lounge room, and after seeing</p> <p>19 this situation I came out, we were alone, I</p> <p>20 came back, I instructed the residents to excuse</p> <p>21 you from all responsibilities that day, as I</p> <p>22 had asked you if you wanted me to do, I also</p> <p>23 went and talked to your supervisor,</p> <p>24 Dr. Peterson, about your status and suggested</p> <p>25 that if he -- if it would be possible to have a</p>	<p style="text-align: right;">Page 53</p> <p>1 LEENA VARUGHESE</p> <p>2 afterwards, and when I returned with Ms. Patel</p> <p>3 and the information to provide you the forms on</p> <p>4 how to request the leave of absence that you</p> <p>5 indicated, she was able to confirm the</p> <p>6 condition in which you were in that day.</p> <p>7 Again, in front of her in the</p> <p>8 second session you reiterated your need to take</p> <p>9 a leave of absence because you were unable to</p> <p>10 cope.</p> <p>11 Q I said -- I don't think that's</p> <p>12 what I said. I never said unable to cope, I</p> <p>13 said that I would consider taking a leave of</p> <p>14 absence if my physicians can approve it and</p> <p>15 it's a foreseeable --</p> <p>16 A That's not a question again, Dr.</p> <p>17 Varughese. What is it you want me to respond</p> <p>18 to.</p> <p>19 Q That's what I said to you. So I</p> <p>20 don't understand why you are misrepresenting</p> <p>21 what had happened that morning?</p> <p>22 A I am not misrepresenting</p> <p>23 anything, I am just relating the summary of the</p> <p>24 experience.</p> <p>25 Q That's your impression.</p>

14 (Pages 50 to 53)

<p style="text-align: right;">Page 54</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. WEINFELD: Is Ms. Patel being</p> <p>3 called as a witness?</p> <p>4 MR. McEVOY: Yes.</p> <p>5 DR. WEINFELD: She would be able</p> <p>6 to answer some of these questions as</p> <p>7 well.</p> <p>8 Q Then you said -- what's your</p> <p>9 experience in clinical medicine, because you</p> <p>10 said that I'm having a petit mal seizure?</p> <p>11 A Well, I went through medical</p> <p>12 school.</p> <p>13 Q So you are not an expert, but</p> <p>14 you made --</p> <p>15 A I did not claim, I said it was</p> <p>16 an impression.</p> <p>17 Q All right, fine.</p> <p>18 A I did not make a diagnosis.</p> <p>19 Q That's fine, thank you.</p> <p>20 You said Dr. Lento mentioned</p> <p>21 that I had only performed 24 autopsies?</p> <p>22 A 24 or 26, that was the total.</p> <p>23 Q I had corrected that, in fact I</p> <p>24 had done 36 autopsies to completion and</p> <p>25 assisted in, perhaps, at least 3 or 4?</p>	<p style="text-align: right;">Page 56</p> <p>1 LEENA VARUGHESE</p> <p>2 In fact, there are 36 autopsies</p> <p>3 under the ACGME log and they can all be noted</p> <p>4 for and they are done to completion.</p> <p>5 A So what's your question</p> <p>6 regarding that now?</p> <p>7 Q My question is why were you led</p> <p>8 to believe that it was only 24 when I already</p> <p>9 informed you that I had also done 36?</p> <p>10 DR. WEINFELD: He already</p> <p>11 answered that, but you can submit the 36</p> <p>12 logs as a --</p> <p>13 MR. MacDONALD: Is the 36 log in</p> <p>14 your --</p> <p>15 DR. VARUGHESE: It's not there.</p> <p>16 MR. MacDONALD: You can submit</p> <p>17 that.</p> <p>18 DR. VARUGHESE: Great.</p> <p>19 Q Yes, you did say that you</p> <p>20 consulted with Dr. Cordone-Cardo regarding</p> <p>21 payment for possibly a penalty fee if I were to</p> <p>22 take the anatomic pathology boards late.</p> <p>23 When did you consult, after you</p> <p>24 told me?</p> <p>25 A Once we verified that you were</p>
<p style="text-align: right;">Page 55</p> <p>1 LEENA VARUGHESE</p> <p>2 A Again, that is not a question.</p> <p>3 What is your point?</p> <p>4 Q My point is that that's not a</p> <p>5 fact. That's once again I am being</p> <p>6 misrepresented as not having done the work that</p> <p>7 I did, but, in fact, I already did 36 autopsies</p> <p>8 satisfactorily and the Department is stating I</p> <p>9 had only done 24.</p> <p>10 A The requirement for you to be</p> <p>11 able to sit at the Boards is 50 autopsies. You</p> <p>12 realize that you had not completed the 50, and</p> <p>13 we made arrangements for you to complete</p> <p>14 whatever number was necessary to fulfill that</p> <p>15 requirement.</p> <p>16 Q In January?</p> <p>17 A When we count the 24 or 26 and</p> <p>18 we brought that to you, you said well, I have</p> <p>19 not kept up my log, and I have done many more</p> <p>20 which are not yet entered into New Innovation,</p> <p>21 the only source that we had to make the counts</p> <p>22 is what you report.</p> <p>23 Q Well, actually I have a</p> <p>24 completed log in ACGME which I would like to</p> <p>25 submit at some point as part of my exhibit.</p>	<p style="text-align: right;">Page 57</p> <p>1 LEENA VARUGHESE</p> <p>2 short of the 50 requirement that your rotation</p> <p>3 through the Medical Examiner's office would not</p> <p>4 occur until January.</p> <p>5 Q Yes, because I'm scheduled late</p> <p>6 for the Medical Examiner rotation and, in fact,</p> <p>7 that I wanted to be --</p> <p>8 A And what is the question?</p> <p>9 Q So my request that I would</p> <p>10 actually be scheduled earlier in the schedule,</p> <p>11 because obviously my next year's schedule was a</p> <p>12 concern that I brought to you when you first</p> <p>13 came here, because I had noted that I am not</p> <p>14 being trained given the rotations that I need</p> <p>15 for adequate training in clinical pathology?</p> <p>16 A So what is your question again?</p> <p>17 Q My question was when did you</p> <p>18 consult with Dr. Cordone-Cardo, what date and</p> <p>19 when, what time?</p> <p>20 A It must have been on the -- I</p> <p>21 don't remember exactly the date, but it was</p> <p>22 shortly after we verified that you did not have</p> <p>23 the 50 autopsies required for sitting in.</p> <p>24 Q Thank you.</p> <p>25 And also when did I ask you for</p>

15 (Pages 54 to 57)

<p style="text-align: right;">Page 58</p> <p>1 LEENA VARUGHESE</p> <p>2 the GI elective to be switched to the dermapath</p> <p>3 elective?</p> <p>4 A On the very first time we met,</p> <p>5 on August 2nd.</p> <p>6 Q On August 2nd, right?</p> <p>7 So when did you ever return or</p> <p>8 respond to me about that elective?</p> <p>9 A Yes. That very same day I</p> <p>10 called Dr. Rojet to check, as I discussed with</p> <p>11 you, first the plan was I will verify if it</p> <p>12 will be a space in dermapathology first, if</p> <p>13 that was available, then we will have to see</p> <p>14 what was the procedure, because you will have</p> <p>15 then to be allowed to drop the GI elective to</p> <p>16 replace it and and that there was a procedure</p> <p>17 in place and a policy that you have to confirm</p> <p>18 with.</p> <p>19 Q Okay, do you recall telling me</p> <p>20 you needed to figure out what the politics is</p> <p>21 in this place was before you can proceed?</p> <p>22 A Well, yes, I said that every</p> <p>23 organization has its own system of policies,</p> <p>24 rules and regulations which represent the</p> <p>25 institutional politic environment.</p>	<p style="text-align: right;">Page 60</p> <p>1 LEENA VARUGHESE</p> <p>2 Varughese' performance in the first two</p> <p>3 years?</p> <p>4 I understand you weren't there, but</p> <p>5 for at least the summary you had gotten?</p> <p>6 DR. FIRPA: I went through New</p> <p>7 Innovation and I pulled out the summary</p> <p>8 of her performance results and</p> <p>9 repeatedly many of her rotations both in</p> <p>10 surgical, primarily in surgical</p> <p>11 pathology, she was in many components of</p> <p>12 the ACGME rated as marginal and</p> <p>13 gradually she progressed to acceptable,</p> <p>14 so for a while for the first two years,</p> <p>15 she was in many areas she was considered</p> <p>16 marginal.</p> <p>17 DR. LEITER: Was there any</p> <p>18 remedial work?</p> <p>19 DR. FIRPA: Well, there were</p> <p>20 recommendations about how to improve and</p> <p>21 she was monitored in subsequent</p> <p>22 assessment of similar experiences and</p> <p>23 she progressed a little bit, and those</p> <p>24 observations were recorded in her</p> <p>25 evaluations.</p>
<p style="text-align: right;">Page 59</p> <p>1 LEENA VARUGHESE</p> <p>2 And we had to beware of those</p> <p>3 requirements before making any final decision.</p> <p>4 Q So, how do you suppose a</p> <p>5 resident who is on disciplinary action and</p> <p>6 feels that they are unfairly on disciplinary</p> <p>7 action feels when a person who's supposed to</p> <p>8 oversee their disciplinary action process says</p> <p>9 that to them?</p> <p>10 What do you think is the -- what</p> <p>11 do you think the resident would feel?</p> <p>12 A I have no idea how they will</p> <p>13 feel. If you are intelligent you will</p> <p>14 understand the meaning.</p> <p>15 Q Okay, I should make an</p> <p>16 impression based on what you said, okay, good.</p> <p>17 DR. WEINFELD: Any other</p> <p>18 questions for Dr. Firpa?</p> <p>19 DR. VARUGHESE: No.</p> <p>20 DR. WEINFELD: Do you want to go</p> <p>21 ahead and call your witnesses.</p> <p>22 MR. McEVOY: I have a question,</p> <p>23 normally the way --</p> <p>24 DR. LEITER: I have a question,</p> <p>25 could you elaborate a little bit on Dr.</p>	<p style="text-align: right;">Page 61</p> <p>1 LEENA VARUGHESE</p> <p>2 That's why she was allowed</p> <p>3 eventually to proceed down the --</p> <p>4 DR. LEITER: Can I ask one more</p> <p>5 question, just the other question was</p> <p>6 was there a formal psychiatric</p> <p>7 evaluation on the day that you felt that</p> <p>8 perhaps there was some disorganized</p> <p>9 behavior?</p> <p>10 DR. FIRPA: We requested it,</p> <p>11 that's why we called student wellness</p> <p>12 and Dr. Harpaz, but she refused under</p> <p>13 any circumstances to see them or</p> <p>14 follow-up.</p> <p>15 She insisted that she had her own</p> <p>16 private physician that she'll talk to and</p> <p>17 everything referred to that.</p> <p>18 DR. BRONHEIM: Did you ever</p> <p>19 receive a request from Dr. Varughese'</p> <p>20 physicians for her to have a medical</p> <p>21 leave of absence?</p> <p>22 DR. FIRPA: No. She never</p> <p>23 followed through, that's what we kept</p> <p>24 waiting for and waiting for and she</p> <p>25 never, and I kept telling her, you have</p>

16 (Pages 58 to 61)

<p style="text-align: right;">Page 62</p> <p>1 LEENA VARUGHESE</p> <p>2 to have a formal request and a doctor's</p> <p>3 note, either clearance to return or see</p> <p>4 student wellness, you cannot return to</p> <p>5 work.</p> <p>6</p> <p>7 DR. WEINFELD: You wanted to say?</p> <p>8 DR. ROCCO: The written</p> <p>9 evaluations that you discussed from New</p> <p>10 Innovations, are they included in your</p> <p>11 Exhibit?</p> <p>12 DR. FIRPA: No.</p> <p>13 DR. ROCCO: Why not?</p> <p>14 DR. FIRPA: They were preceded.</p> <p>15 DR. ROCCO: Why not?</p> <p>16 DR. FIRPA: No.</p> <p>17 DR. ROCCO: Why not?</p> <p>18 DR. FIRPA: Because they preceded</p> <p>19 the issues that led to her dismissal</p> <p>20 which were the events following her</p> <p>21 final warning on July 15th, disciplinary</p> <p>22 actionings had been taken before.</p> <p>23 DR. WEINFELD: Did you want to</p> <p>24 add something?</p> <p>25 MR. McEVOY: Two things, I guess.</p>	<p style="text-align: right;">Page 64</p> <p>1 LEENA VARUGHESE</p> <p>2 its opening statement, if you will, before</p> <p>3 the witnesses are called, the resident, in</p> <p>4 this case Dr. Varughese, is permitted the</p> <p>5 opportunity to make an opening statement</p> <p>6 before we actually call witnesses.</p> <p>7 She can decline to do that,</p> <p>8 obviously, but I think she gets that</p> <p>9 opportunity.</p> <p>10 MR. MacDONALD: Well, that's</p> <p>11 fine, but I understood that this was</p> <p>12 also testimony.</p> <p>13 MR. McEVOY: It is.</p> <p>14 MR. MacDONALD: Is this an</p> <p>15 opening statement plus testimony?</p> <p>16 MR. McEVOY: Yes.</p> <p>17 MR. MacDONALD: So you are asking</p> <p>18 Dr. Varughese, which is appropriate, and</p> <p>19 you can respond as you wish, Dr.</p> <p>20 Varughese, as to whether you would like</p> <p>21 to make an opening statement before we</p> <p>22 proceed to the witnesses of the</p> <p>23 Department.</p> <p>24 Or you can wait until your</p> <p>25 presentation, if you wish.</p>
<p style="text-align: right;">Page 63</p> <p>1 LEENA VARUGHESE</p> <p>2 One is just because the question was</p> <p>3 raised about timing, the position of the</p> <p>4 Department is that everything that</p> <p>5 happened before July 15th of 2011 which</p> <p>6 is when Dr. Cordone-Cardo gave her the</p> <p>7 final warning is largely irrelevant to</p> <p>8 this proceeding.</p> <p>9 We are not here to talk about why</p> <p>10 she got a final warning, why she got an</p> <p>11 academic advisement, what her ratings were</p> <p>12 during the first two years.</p> <p>13 Her final warning is her final</p> <p>14 warning. That's the record.</p> <p>15 She did not appeal from it, so what</p> <p>16 I think the committee is here to consider</p> <p>17 is what happened after the final warning</p> <p>18 until she was terminated that either did</p> <p>19 or didn't sustain the decision to</p> <p>20 terminate her, that's I think what is</p> <p>21 appropriate for the committee to look at.</p> <p>22 Secondly, which is just a</p> <p>23 procedural point, is that normally in</p> <p>24 these hearings in my experience after the</p> <p>25 Department makes its opening presentation,</p>	<p style="text-align: right;">Page 65</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. VARUGHESE: I would just like</p> <p>3 to respond to the counsel for the</p> <p>4 department.</p> <p>5 MR. MacDONALD: Okay.</p> <p>6 DR. VARUGHESE: It's just that</p> <p>7 you are saying me being on disciplinary</p> <p>8 action is irrelevant, but in fact</p> <p>9 without that particular aspect this</p> <p>10 whole situation would be arbitrary and</p> <p>11 capricious, and I think we have all read</p> <p>12 through the summary suspension letter</p> <p>13 and we can review it again, it's not</p> <p>14 enough to get anybody fired or suspended</p> <p>15 or terminated.</p> <p>16 MR. McEVOY: That's a perfectly</p> <p>17 legitimate position for Dr. Varughese to</p> <p>18 take if she says what happened between</p> <p>19 July 15th and September 21st is not</p> <p>20 sufficient to warrant termination,</p> <p>21 that's a legitimate position for her to</p> <p>22 take.</p> <p>23 MR. MacDONALD: We understand</p> <p>24 that and we understand that is going to</p> <p>25 be your presentation, if you have</p>

17 (Pages 62 to 65)

<p style="text-align: right;">Page 66</p> <p>1 LEENA VARUGHESE</p> <p>2 anything to say now as a preliminary</p> <p>3 statement you are free to do so, or we</p> <p>4 can now proceed to the witnesses for the</p> <p>5 department.</p> <p>6 Shall we proceed in that way, Dr.</p> <p>7 Varughese?</p> <p>8 DR. VARUGHESE: Okay.</p> <p>9 MR. McEVOY: I shall get the</p> <p>10 first witness.</p> <p>11 DR. WEINFELD: I don't know if</p> <p>12 you narrowed the list since Friday, but</p> <p>13 you would know the answer, there are no</p> <p>14 witnesses on both sides?</p> <p>15 DR. VARUGHESE: No.</p> <p>16 DR. WEINFELD: Of the 20</p> <p>17 witnesses, are any of the witnesses the</p> <p>18 same as the Department is calling?</p> <p>19 DR. VARUGHESE: Since the</p> <p>20 Department is already calling certain</p> <p>21 witnesses, I figured I will just</p> <p>22 follow-up after.</p> <p>23 DR. WEINFELD: So is it --</p> <p>24 DR. VARUGHESE: I was planning on</p> <p>25 cross-examining them, not necessarily</p>	<p style="text-align: right;">Page 68</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. VARUGHESE: I do, actually.</p> <p>3 DR. WEINFELD: I want to make</p> <p>4 sure you have access to what they are</p> <p>5 looking at.</p> <p>6</p> <p>7 DIRECT EXAMINATION BY DR. FIRPA:</p> <p>8</p> <p>9 Q Dr. Najfeld, good evening.</p> <p>10 A Good evening.</p> <p>11 Q Would you state your employment</p> <p>12 here at Mount Sinai and your position?</p> <p>13 A I am a professor of pathology</p> <p>14 and medicine and I am director of tumor</p> <p>15 cytogenetics laboratory at the Mount Sinai</p> <p>16 Hospital and professor in the Mount Sinai</p> <p>17 School of Medicine.</p> <p>18 Q Thank you.</p> <p>19 Would you describe for the</p> <p>20 benefit of all of us in very general terms what</p> <p>21 is tumor cytogenetics?</p> <p>22 A The tumor cytogenetics is a</p> <p>23 study of chromosomes in cancer cells and it's</p> <p>24 these days used for diagnostic as well as for</p> <p>25 therapeutic purposes, particularly in patients</p>
<p style="text-align: right;">Page 67</p> <p>1 LEENA VARUGHESE</p> <p>2 call them as a witness.</p> <p>3 DR. MARIN: Are there 20</p> <p>4 witnesses out there waiting?</p> <p>5 DR. VARUGHESE: I'm not sure if</p> <p>6 they are all here.</p> <p>7 MR. MacDONALD: Where is our</p> <p>8 witness sitting.</p> <p>9 MR. MacDONALD: Dr. Firpa, will</p> <p>10 you be questioning the witness?</p> <p>11 DR. FIRPA: Yes, sir.</p> <p>12 MR. MacDONALD: Okay.</p> <p>13</p> <p>14 V E S N A N A J F E L D, called as a</p> <p>15 witness, having been first duly affirmed</p> <p>16 by the Notary Public, was examined and</p> <p>17 testified as follows:</p> <p>18</p> <p>19 MR. McEVOY: Can the witness be</p> <p>20 given a set of the Department's</p> <p>21 exhibits, because I think there are</p> <p>22 certain exhibits in there that Dr. Firpa</p> <p>23 is going to ask her to look at.</p> <p>24 DR. WEINFELD: Dr. Varughese, do</p> <p>25 you have a copy of these?</p>	<p style="text-align: right;">Page 69</p> <p>1 LEENA VARUGHESE</p> <p>2 with hematological malignancies, as well as</p> <p>3 some solid tumors.</p> <p>4 Q Have you ever had Dr. Varughese'</p> <p>5 rotate through your laboratory?</p> <p>6 A Yes. Twice.</p> <p>7 Q When?</p> <p>8 A She rotated in August of this</p> <p>9 year, the second rotation and apparently -- for</p> <p>10 two weeks, and apparently the first rotation</p> <p>11 was about two years before that, which we have</p> <p>12 very little documentation about that, we have</p> <p>13 very good documentation about August 2011.</p> <p>14 Q At the time of this rotation</p> <p>15 when she began, were you aware of Dr.</p> <p>16 Varughese' disciplinary history or of any</p> <p>17 problems with her performance and conduct?</p> <p>18 A None whatsoever.</p> <p>19 Q Was there an incident regarding</p> <p>20 Dr. Varughese' clinical case presentation on</p> <p>21 August 9th, and if so, please correct the</p> <p>22 incident?</p> <p>23 A She was asked, most of the</p> <p>24 residents who rotate through the lab basically</p> <p>25 get a case per week to present.</p>

18 (Pages 66 to 69)

<p style="text-align: right;">Page 70</p> <p>1 LEENA VARUGHESE</p> <p>2 At the center for clinical</p> <p>3 laboratories, clinical case presentations.</p> <p>4 She was no exception to this</p> <p>5 rule, she got the case I think within the first</p> <p>6 day or two of the rotation.</p> <p>7 She was asked to show me the</p> <p>8 presentation by Friday, she took two days after</p> <p>9 work to present -- to prepare for the case,</p> <p>10 most of the residents basically do that in</p> <p>11 their spare time in the evening.</p> <p>12 On Friday before Tuesday</p> <p>13 presentation she did come to consult me about</p> <p>14 the presentation, I was not in the office for</p> <p>15 that 5 minutes.</p> <p>16 I was told that she came at 3:00</p> <p>17 in the afternoon and so I was hoping she was</p> <p>18 going to come back and she never did, so the</p> <p>19 presentation was sent to me on Monday at 4:00</p> <p>20 in the afternoon, she did not pick up the</p> <p>21 images on Friday from the lab, and I said this</p> <p>22 is the case I'm going to present tomorrow.</p> <p>23 I looked at the case and I tried</p> <p>24 to call her, indicating that the case was not</p> <p>25 of sufficiently good quality.</p>	<p style="text-align: right;">Page 72</p> <p>1 LEENA VARUGHESE</p> <p>2 place the following week, as long as you make</p> <p>3 sure that you tell everybody because people</p> <p>4 come from various parts early in the morning</p> <p>5 for the presentation.</p> <p>6 There was no e-mail informing</p> <p>7 the faculty of the center of clinical labs that</p> <p>8 the presentation will not take place.</p> <p>9 I e-mailed her on Tuesday at I</p> <p>10 think 6:20 or 6:30, please make sure that it's</p> <p>11 e-mailed to all the faculty so they don't have</p> <p>12 to waste time.</p> <p>13 I must have twice sent twice or</p> <p>14 three times this e-mail, nothing happened.</p> <p>15 And finally I got an e-mail at</p> <p>16 10:00 only directed to me and saying there is</p> <p>17 not going to be a presentation.</p> <p>18 To me, who actually knew all</p> <p>19 about it.</p> <p>20 At 9:00 when the presentation</p> <p>21 was taking place everybody was asking is there</p> <p>22 a presentation today?</p> <p>23 Leena was there and never</p> <p>24 actually said I'm sorry, I was supposed to give</p> <p>25 a talk, but I'm not ready today, we will do it</p>
<p style="text-align: right;">Page 71</p> <p>1 LEENA VARUGHESE</p> <p>2 I couldn't find Leena in the</p> <p>3 residents' office, I couldn't -- she did not</p> <p>4 respond to the page, I called Dr. Firpa, I said</p> <p>5 I'm looking for Leena because I need to get in</p> <p>6 touch with her.</p> <p>7 So, he gave me another number</p> <p>8 and I finally got to the residents' room and I</p> <p>9 said can I leave a message for Leena to call me</p> <p>10 back.</p> <p>11 Which she did in about half an</p> <p>12 hour, and I said Leena, this presentation is</p> <p>13 not of sufficient quality to be presented</p> <p>14 tomorrow.</p> <p>15 Can you come and we can work on</p> <p>16 it?</p> <p>17 She says -- this is Monday at</p> <p>18 about 4:15, 4:30, she says no, I'm out of Mount</p> <p>19 Sinai.</p> <p>20 I said that's fine, I'll be here</p> <p>21 until 6:00, come over and we can work on it.</p> <p>22 I cannot come back to Sinai.</p> <p>23 So I said if you cannot, this is</p> <p>24 not going to -- the presentation will not take</p> <p>25 place tomorrow, which is fine, it can take</p>	<p style="text-align: right;">Page 73</p> <p>1 LEENA VARUGHESE</p> <p>2 next week.</p> <p>3 She sat there, never answering</p> <p>4 to the director of the lab who sat there and</p> <p>5 said I'm sorry, it's not going to take place.</p> <p>6 Q May I call your attention to the</p> <p>7 Exhibit 5.</p> <p>8 A I don't know where I am supposed</p> <p>9 to look here, actually.</p> <p>10 MR. McEVOY: Behind tab number 5.</p> <p>11 Q There is tab number 5.</p> <p>12 A Okay, got it.</p> <p>13 Q Would you look through them and</p> <p>14 tell us how that content relates to what you</p> <p>15 just told us?</p> <p>16 A This is fine. It's now pages</p> <p>17 and pages, yes.</p> <p>18 Q Just tell us what it represents.</p> <p>19 A So there is at page, I guess --</p> <p>20 at some point my e-mail to her on Monday,</p> <p>21 August 8th, do you want me to read this?</p> <p>22 Q No, just give us in general</p> <p>23 terms what those demonstrate?</p> <p>24 A This e-mail says Leena, you were</p> <p>25 supposed to take the patient's images on Friday</p>

19 (Pages 70 to 73)

<p style="text-align: right;">Page 74</p> <p>1 LEENA VARUGHESE</p> <p>2 from my staff, you had a whole day today and</p> <p>3 never came to take the images.</p> <p>4 The reason we present the case</p> <p>5 is for educational purposes and the patient's</p> <p>6 images are presented as a part of this learning</p> <p>7 experience.</p> <p>8 This refers to the fact that she</p> <p>9 did not take the images from these patients but</p> <p>10 downloaded from somewhere, which is really not</p> <p>11 the reason why we actually have case</p> <p>12 conferences.</p> <p>13 The case conferences refer and</p> <p>14 the images are very specific for that patient.</p> <p>15 If I was not here at 3:00 p.m.</p> <p>16 when you stopped by, you should have written me</p> <p>17 a note and I would have called you the moment I</p> <p>18 came in.</p> <p>19 Meanwhile, I left since 4:18</p> <p>20 p.m. a number of e-mails and messages only to</p> <p>21 find out that you left at 5 p.m. and would not</p> <p>22 return to Sinai to work with me on this</p> <p>23 presentation.</p> <p>24 I was willing to work with you</p> <p>25 until 6:00 p.m., I think a lot more work needs</p>	<p style="text-align: right;">Page 76</p> <p>1 LEENA VARUGHESE</p> <p>2 presentation.</p> <p>3 DR. WEINFELD: And what was her</p> <p>4 response?</p> <p>5 THE WITNESS: I cannot remember</p> <p>6 exactly, so I am not going to impose,</p> <p>7 but I remember asking this question.</p> <p>8 She may remember, I can't remember,</p> <p>9 really.</p> <p>10 Q Was it related to her knowledge</p> <p>11 about the field, pathology in general, the fact</p> <p>12 that she had rotated through your lab before,</p> <p>13 did her behavior and knowledge that she</p> <p>14 exhibited in your rotation reflect any growth</p> <p>15 or knowledge at all in the field?</p> <p>16 A I think somewhere here during</p> <p>17 our little tutorial, we came upon the</p> <p>18 definition of what should be a stat case for</p> <p>19 this lab -- I'm sorry, what should be the stat</p> <p>20 case for our lab.</p> <p>21 And I said we don't have too</p> <p>22 many stat cases that needs instant attention,</p> <p>23 but one of the leukemia that it is APL, acute</p> <p>24 promyelocytic leukemia.</p> <p>25 So I asked Leena to tell me the</p>
<p style="text-align: right;">Page 75</p> <p>1 LEENA VARUGHESE</p> <p>2 to go into this presentation and let's try for</p> <p>3 the next week.</p> <p>4 Thanks, Vesna.</p> <p>5 Q Did you consider that the work</p> <p>6 reflected in the presentation submitted to you</p> <p>7 was compatible with her level of training?</p> <p>8 A No. Fourth year resident.</p> <p>9 Q How would you assess --</p> <p>10 DR. BRONHEIM: Could you explain</p> <p>11 your no?</p> <p>12 THE WITNESS: I think the fourth</p> <p>13 year resident in pathology should not --</p> <p>14 should know how to give a presentation.</p> <p>15 To take patients out images, I</p> <p>16 don't think this is a teaching for the</p> <p>17 fourth year, this is maybe for the first</p> <p>18 year resident.</p> <p>19 DR. BRONHEIM: I thought you were</p> <p>20 referring to content?</p> <p>21 THE WITNESS: I actually at some</p> <p>22 point asked Leena out of this context,</p> <p>23 did anybody spend any time with her</p> <p>24 teaching her how to present a case,</p> <p>25 because I was so appalled by this</p>	<p style="text-align: right;">Page 77</p> <p>1 LEENA VARUGHESE</p> <p>2 definition of APL.</p> <p>3 Her response was I have done</p> <p>4 hematopathology a few years ago.</p> <p>5 So I said, that's fine, why</p> <p>6 don't you look it up and let me know tomorrow.</p> <p>7</p> <p>8 I have never got an answer to</p> <p>9 this very day what's the definition of APL.</p> <p>10 Q Overall, how would you rate Dr.</p> <p>11 Varughese' attendance during her rotation at</p> <p>12 your lab?</p> <p>13 A Well, I mentioned earlier two</p> <p>14 days immediately was taken off from the</p> <p>15 rotation to prepare the case.</p> <p>16 I think this is in my view out</p> <p>17 of two weeks unacceptable, one day she called</p> <p>18 in sick, that's a third day, so it's two weeks,</p> <p>19 it's like ten working days.</p> <p>20 In the ten working days at least</p> <p>21 six steps have to be done so somebody should</p> <p>22 pass the rotation, so the last day of her</p> <p>23 rotation was also the day when I was asked by</p> <p>24 anatomic pathology people to spare her because</p> <p>25 there was an emergency there in the afternoon.</p>

20 (Pages 74 to 77)

<p style="text-align: right;">Page 78</p> <p>1 LEENA VARUGHESE</p> <p>2 So in the morning was her</p> <p>3 basically the last day there, so it was like</p> <p>4 three and a half days of the ten days rotation</p> <p>5 that she wasn't there.</p> <p>6 I don't think she ever came at</p> <p>7 9:00 in the morning to the lab, most of the</p> <p>8 time it was 10:30, she was told one morning on</p> <p>9 Wednesday to come at 1:00 because we have lab</p> <p>10 meetings and my entire lab knows at 1:00</p> <p>11 Wednesday is 1:00 sharp, she walked in at 1:30.</p> <p>12 It's called poor attendance and</p> <p>13 not on time.</p> <p>14 Q Now, you said on her last day of</p> <p>15 rotation there was an incident that she was</p> <p>16 taken off the rotation during the afternoon.</p> <p>17 Can you tell us more about what</p> <p>18 you observed related to that?</p> <p>19 A First of all, prior to her</p> <p>20 coming to the lab there was -- I had a number</p> <p>21 of e-mails from the chief resident and</p> <p>22 everybody else, has Leena arrived to the lab</p> <p>23 and I kept saying no, and it was nothing</p> <p>24 unusual, she has never come before 10:30 in the</p> <p>25 lab, to the lab.</p>	<p style="text-align: right;">Page 80</p> <p>1 LEENA VARUGHESE</p> <p>2 him in front of my entire lab staff was not</p> <p>3 very nice.</p> <p>4 And everybody in the lab was a</p> <p>5 little bit basically made comments that this is</p> <p>6 not how you talk to anybody, and that they had</p> <p>7 no idea who Pat Leto is.</p> <p>8 So they didn't know, you know,</p> <p>9 what is his relationship to Leena, but they</p> <p>10 realized that the type of conversation was</p> <p>11 going on was not very respectful, that much I</p> <p>12 can tell you.</p> <p>13 And while the supervisor was</p> <p>14 trying to squeeze any minute before noon, I</p> <p>15 moved and went to my office, and she said I</p> <p>16 don't know why I'm doing this, it's really a</p> <p>17 waste of my time.</p> <p>18 I am only five feet away, so I</p> <p>19 heard all of that.</p> <p>20 I decided not to intervene</p> <p>21 because there was nothing more I can say.</p> <p>22 In my view even if something --</p> <p>23 we all learned a few things in life that we</p> <p>24 thought maybe we didn't have to, but even if</p> <p>25 something is a waste of time, you don't spell</p>
<p style="text-align: right;">Page 79</p> <p>1 LEENA VARUGHESE</p> <p>2 At 10:30 I think she walked in</p> <p>3 and we told her, that although I understand</p> <p>4 that she has to help in anatomic pathology in</p> <p>5 the afternoon, she got to finish her few</p> <p>6 karyotypes.</p> <p>7 And I put her intensely to work</p> <p>8 alone as well as with a supervisor onto work on</p> <p>9 that.</p> <p>10 At some point Dr. Pat Lento</p> <p>11 called me and says is Leena in the lab?</p> <p>12 I said yes.</p> <p>13 Would you ask her to come on the</p> <p>14 phone? I said I'm sorry, I'm not her</p> <p>15 secretary.</p> <p>16 If you need her, page her.</p> <p>17 Which he proceeded to do and she</p> <p>18 didn't answer the page because I was standing</p> <p>19 next to her, I heard her page going and she did</p> <p>20 not answer.</p> <p>21 So then he called back and says</p> <p>22 could you please get her?</p> <p>23 So I said what can I do? Of</p> <p>24 course I will.</p> <p>25 Okay, so her conversation with</p>	<p style="text-align: right;">Page 81</p> <p>1 LEENA VARUGHESE</p> <p>2 it out in front of the entire lab staff, it's a</p> <p>3 bad morale for the lab.</p> <p>4 Q Let me call your attention to</p> <p>5 Exhibit 4.</p> <p>6 He addresses the following</p> <p>7 concern, what is your role evaluation of Dr.</p> <p>8 Varughese' performance in your rotation</p> <p>9 regarding professionalism.</p> <p>10 What does the exhibit represent,</p> <p>11 briefly?</p> <p>12 A Well, the exhibit is basically</p> <p>13 the summary of my thoughts about her.</p> <p>14 And I'm just going to give one</p> <p>15 example, sort of put our relationship</p> <p>16 immediately wrong, so to speak wrong.</p> <p>17 I actually spend time with the</p> <p>18 residents, I give them tutorials, I really</p> <p>19 dedicate myself to this education.</p> <p>20 And I was giving Leena a</p> <p>21 tutorial with a computer screen all with</p> <p>22 chromosomes, genes and everything else.</p> <p>23 And she is on a Blackberry and I</p> <p>24 said put this Blackberry back, because this is</p> <p>25 very disrespectful to me personally.</p>

21 (Pages 78 to 81)

<p style="text-align: right;">Page 82</p> <p>1 LEENA VARUGHESE</p> <p>2 She put it back, 5 minutes later</p> <p>3 she's on the Blackberry.</p> <p>4 And I said Leena, put this</p> <p>5 Blackberry, I don't want to see this.</p> <p>6 This by the way happened almost</p> <p>7 every day.</p> <p>8 This I don't call -- it's a</p> <p>9 personal insult to me and to everybody else who</p> <p>10 takes the time and invests time to teach, so</p> <p>11 this is called unprofessional.</p> <p>12 I think coming late to the lab</p> <p>13 is unprofessional.</p> <p>14 Calling in sick when you're</p> <p>15 supposedly presenting the case is</p> <p>16 unprofessional.</p> <p>17 Having total lack of enthusiasm</p> <p>18 and ambition, fourth year resident should be</p> <p>19 excited about the life ahead of it, and not to</p> <p>20 be totally excited at anything and then when</p> <p>21 you are asked go home and look what's APL, one</p> <p>22 sentence definition, just come back to your</p> <p>23 person who is teaching you and say I looked it</p> <p>24 up, I know what it is, isn't that exciting?</p> <p>25 There was nothing of that.</p>	<p style="text-align: right;">Page 84</p> <p>1 LEENA VARUGHESE</p> <p>2 first day?</p> <p>3 A Yes.</p> <p>4 Q The second day?</p> <p>5 A No, because you took some days</p> <p>6 off to prepare the case.</p> <p>7 Q No, I didn't.</p> <p>8 A Yes, you did. You have asked</p> <p>9 me, you have asked me to take the time off to</p> <p>10 prepare the case.</p> <p>11 Q I have asked you if I could go</p> <p>12 to the library and just work.</p> <p>13 A That's right, so you were not</p> <p>14 there.</p> <p>15 Q Or I was at the residents' room?</p> <p>16 A I don't know where you were.</p> <p>17 You were not where you are supposed to be, the</p> <p>18 computer is there for the residents.</p> <p>19 Q Okay.</p> <p>20 So, do you realize your staff</p> <p>21 e-mails me every day and tells me what to do</p> <p>22 for the rest of the day?</p> <p>23 A Um-hum.</p> <p>24 Q So, you do realize the staff</p> <p>25 tells me when to come into the lab?</p>
<p style="text-align: right;">Page 83</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. FIRPA: Okay, I have no</p> <p>3 further questions.</p> <p>4 DR. WEINFELD: Dr. Varughese,</p> <p>5 would you like to ask questions?</p> <p>6</p> <p>7 CROSS-EXAMINATION BY DR. VARUGHESE:</p> <p>8</p> <p>9 Q So, how do you manage, how do</p> <p>10 you keep track of the residents' time when the</p> <p>11 residents' are in your lab, what do you do?</p> <p>12 A As I just mentioned, you realize</p> <p>13 where I am sitting, so I can actually see</p> <p>14 what's going on straight from the imaging lab</p> <p>15 to the tissue culture lab, except for the fish</p> <p>16 lab, so I actually can observe very much and</p> <p>17 you were not necessarily on fish rotation this</p> <p>18 time; correct?</p> <p>19 Q I was, actually.</p> <p>20 A For a few hours.</p> <p>21 Q For several days here and there.</p> <p>22 A But primarily karyotypes, that's</p> <p>23 imaging lab sitting right in front of me, so I</p> <p>24 can actually see what's going on.</p> <p>25 Q So, did you observe me there the</p>	<p style="text-align: right;">Page 85</p> <p>1 LEENA VARUGHESE</p> <p>2 A Um-hum.</p> <p>3 Q And what activities I'm supposed</p> <p>4 to do each day?</p> <p>5 A Um-hum.</p> <p>6 Q Do you realize there were</p> <p>7 certain days where your staff asked me not to</p> <p>8 come into the lab?</p> <p>9 A No.</p> <p>10 Q Okay, there were, that's why I</p> <p>11 was not there.</p> <p>12 A Okay. Can we have documentation</p> <p>13 for that?</p> <p>14 Q Yeah I have documentation of</p> <p>15 that.</p> <p>16 DR. MARIN: Is it in this</p> <p>17 exhibit?</p> <p>18 DR. VARUGHESE: Let me just see.</p> <p>19 It's not, but I will add it to the</p> <p>20 exhibit.</p> <p>21 MR. McEVOY: No, I object to</p> <p>22 this. Let me state this objection.</p> <p>23 DR. VARUGHESE: You are allowed</p> <p>24 to ask --</p> <p>25 MR. McEVOY: I can object, Dr.</p>

22 (Pages 82 to 85)

<p style="text-align: right;">Page 86</p> <p>1 LEENA VARUGHESE</p> <p>2 Varughese. I have done a lot of these</p> <p>3 in my time.</p> <p>4 Here is my objection, the Committee</p> <p>5 directed Dr. Varughese to provide a list</p> <p>6 of her exhibits by the close of business</p> <p>7 on Thursday or Friday. Dr. Varughese chose</p> <p>8 to ignore that without any explanation,</p> <p>9 without any requests for an extension.</p> <p>10 She e-mailed the Committee 47</p> <p>11 exhibits three hours before this hearing</p> <p>12 was scheduled to start. Dr. Varughese has</p> <p>13 had an enormous amount of time to prepare</p> <p>14 her exhibits, she chose to ignore the</p> <p>15 Committee's request.</p> <p>16 Just when she felt like it, she</p> <p>17 sent 47 exhibits.</p> <p>18 And now, twice she has raised oh, I</p> <p>19 have documentation that proves that what</p> <p>20 she's known about from the termination</p> <p>21 letter is the issues in this case and what</p> <p>22 she says is oh, I'll give those to you</p> <p>23 later, we will submit those later.</p> <p>24 I don't think that's</p> <p>25 appropriate. Dr. Varughese had plenty of</p>	<p style="text-align: right;">Page 88</p> <p>1 LEENA VARUGHESE</p> <p>2 request that it be submitted at some</p> <p>3 point, I don't think that's me asking</p> <p>4 for too much.</p> <p>5 Even though you correctly stated</p> <p>6 that you didn't have time to review.</p> <p>7 MR. McEVOY: I have said what I</p> <p>8 have to say.</p> <p>9 DR. WEINFELD: Okay</p> <p>10 DR. VARUGHESE: On another note,</p> <p>11 I was also not informed this hearing --</p> <p>12 DR. WEINFELD: Wait one second,</p> <p>13 we have a witness on the stand. Let's</p> <p>14 deal with the witness.</p> <p>15 DR. VARUGHESE: Sure.</p> <p>16 Q All right, so your staff is, in</p> <p>17 fact, responsible for when I'm working with</p> <p>18 them, and you know that?</p> <p>19 A What's the question?</p> <p>20 Q So that you know that your staff</p> <p>21 is going to be --</p> <p>22 A I am well aware what my staff is</p> <p>23 doing. My staff is doing based on my</p> <p>24 instructions.</p> <p>25 Q Good.</p>
<p style="text-align: right;">Page 87</p> <p>1 LEENA VARUGHESE</p> <p>2 time to submit these exhibits, there is</p> <p>3 nothing surprising about these exhibits,</p> <p>4 and the Department objects to Dr.</p> <p>5 Varughese sort of setting her own schedule</p> <p>6 and her own time to submit exhibits.</p> <p>7 And, quite frankly, it's</p> <p>8 prejudicial to the Department to expect</p> <p>9 them and us to review 47 exhibits in three</p> <p>10 hours and be prepared to respond to them,</p> <p>11 and now exhibits are just kind of coming</p> <p>12 from well, I have them and I'll give them</p> <p>13 to you some time, some way, in some</p> <p>14 context; it's not appropriate.</p> <p>15 DR. VARUGHESE: Fine, that's</p> <p>16 wonderful, but here is can I make a</p> <p>17 point --</p> <p>18 MR. McEVOY: It's not wonderful,</p> <p>19 it's correct.</p> <p>20 DR. WEINFELD: That's enough.</p> <p>21 DR. VARUGHESE: Okay, that's not</p> <p>22 what I meant to say, the point is this</p> <p>23 hearing is basically for my job, so if I</p> <p>24 want to say there is evidence even</p> <p>25 though I didn't put it in there, and</p>	<p style="text-align: right;">Page 89</p> <p>1 LEENA VARUGHESE</p> <p>2 A I am totally aware of that.</p> <p>3 Q So, there have been times where</p> <p>4 they have asked me not to come in?</p> <p>5 A Correct, but they would ask you</p> <p>6 to come in maybe a little bit later, or not.</p> <p>7 When they told you the lab</p> <p>8 meeting is at 1:00, the lab meeting is at 1:00,</p> <p>9 you would come at 1:30, that's disrespect to</p> <p>10 me.</p> <p>11 Forget about the lab meeting and</p> <p>12 anybody else.</p> <p>13 Q What date was that?</p> <p>14 A Wednesday. Whatever date day it</p> <p>15 was, June, I don't know.</p> <p>16 Q Okay, all right.</p> <p>17 So you made a comment saying</p> <p>18 that my presentation was not compatible with my</p> <p>19 year of training?</p> <p>20 A Um-hum.</p> <p>21 Q And you said this because I used</p> <p>22 cytogenetic images from the internet?</p> <p>23 A Correct.</p> <p>24 Q Is that correct?</p> <p>25 A And you were told to come on</p>

23 (Pages 86 to 89)

<p style="text-align: right;">Page 90</p> <p>1 LEENA VARUGHESE</p> <p>2 Friday to pick up the images from the lab.</p> <p>3 Q I don't think so.</p> <p>4 A Yes.</p> <p>5 DR. WEINFELD: Is there a</p> <p>6 question?</p> <p>7 Q I don't think that's true.</p> <p>8 A It's all in the e-mail that I</p> <p>9 sent to you, and there is -- that document.</p> <p>10 Q So, the e-mail you sent to me?</p> <p>11 A That's very well documented. So</p> <p>12 what's the question, actually?</p> <p>13 Q So basically I came to your</p> <p>14 office and I couldn't find you, I was informed</p> <p>15 by your staff that you would not be there</p> <p>16 for -- until 4:00 p.m. or later, I waited for</p> <p>17 you until 4:00 or so, I didn't see you so I</p> <p>18 assumed that I'll e-mail you documentation.</p> <p>19 A You e-mailed the documentation</p> <p>20 on Monday, this is Friday.</p> <p>21 Q So I e-mailed you everything on</p> <p>22 Friday?</p> <p>23 A No.</p> <p>24 Q Including my presentation?</p> <p>25 A No, on Monday.</p>	<p style="text-align: right;">Page 92</p> <p>1 LEENA VARUGHESE</p> <p>2 addresses the problems here.</p> <p>3 DR. WEINFELD: No, no, that</p> <p>4 wasn't my question, my question --</p> <p>5 DR. MARIN: Am I looking at the</p> <p>6 right thing? I have a e-mail from Dr.</p> <p>7 Adolfo --</p> <p>8 DR. VARUGHESE: Yes, that's it.</p> <p>9 DR. WEINFELD: So the question</p> <p>10 was you are disputing whether you sent</p> <p>11 an e-mail Friday versus Monday, how does</p> <p>12 this e-mail address that question?</p> <p>13 DR. VARUGHESE: I actually don't</p> <p>14 have the Friday e-mail I sent to her.</p> <p>15 A I do.</p> <p>16 DR. VARUGHESE: Actually it's in</p> <p>17 Exhibit --</p> <p>18 DR. WEINFELD: A different</p> <p>19 exhibit?</p> <p>20 DR. VARUGHESE: It's the exhibit</p> <p>21 that's part of the Department's list.</p> <p>22 MR. MacDONALD: Exhibit 5?</p> <p>23 DR. VARUGHESE: Exhibit 5.</p> <p>24 DR. WEINFELD: There is an e-mail</p> <p>25 dated Monday, August 8th.</p>
<p style="text-align: right;">Page 91</p> <p>1 LEENA VARUGHESE</p> <p>2 Q I e-mailed you my presentation</p> <p>3 on Friday, right?</p> <p>4 A No, on Monday.</p> <p>5 Q Well, I would like to refer to</p> <p>6 Exhibit 24.</p> <p>7 MR. McEVOY: I don't think that</p> <p>8 Dr. Najfeld has that.</p> <p>9 THE WITNESS: I don't have this.</p> <p>10 DR. WEINFELD: We can get you a</p> <p>11 copy.</p> <p>12 MR. MacDONALD: 24.</p> <p>13 DR. VARUGHESE: Yes.</p> <p>14 DR. WEINFELD: What does that</p> <p>15 have to do with the point we are</p> <p>16 discussing?</p> <p>17 DR. VARUGHESE: So this is</p> <p>18 basically --</p> <p>19 Q Anyway, I just want to point</p> <p>20 out --</p> <p>21 THE WITNESS: I'm sorry?</p> <p>22 DR. WEINFELD: You brought up the</p> <p>23 point, you e-mailed on Friday, does this</p> <p>24 exhibit address that issue or not?</p> <p>25 DR. VARUGHESE: It sort of</p>	<p style="text-align: right;">Page 93</p> <p>1 LEENA VARUGHESE</p> <p>2 MR. McEVOY: I think Dr. Najfeld</p> <p>3 is confused.</p> <p>4 MR. McEVOY: I am confused.</p> <p>5 THE WITNESS: This is the e-mail</p> <p>6 I just read, actually.</p> <p>7 MR. McEVOY: This is the exhibit.</p> <p>8 THE WITNESS: Yes.</p> <p>9 THE WITNESS: It's Monday, August</p> <p>10 8 at 4:18 p.m.</p> <p>11 DR. WEINFELD: These are all</p> <p>12 Monday August 8th.</p> <p>13 DR. VARUGHESE: So I sent the --</p> <p>14 I apologize.</p> <p>15 DR. WEINFELD: Let's move on to</p> <p>16 the next point.</p> <p>17 DR. VARUGHESE: It was sent on</p> <p>18 Monday, not on Friday.</p> <p>19 DR. WEINFELD: That's what she</p> <p>20 said.</p> <p>21 THE WITNESS: That's what I</p> <p>22 basically said.</p> <p>23 Q You are correct, you are</p> <p>24 correct, so the presentation was for the next</p> <p>25 morning on Tuesday morning at 9:00 a.m.?</p>

24 (Pages 90 to 93)

<p style="text-align: right;">Page 94</p> <p>1 LEENA VARUGHESE</p> <p>2 A That's exactly right. You were</p> <p>3 supposed to come on Friday.</p> <p>4 Q No, you gave me the presentation</p> <p>5 to do when, what day did you give me the</p> <p>6 presentation?</p> <p>7 A Monday or Tuesday of that week.</p> <p>8 Q No.</p> <p>9 A Where is the documentation?</p> <p>10 Q Well, here is the thing, when</p> <p>11 did you discuss the goals and objective of the</p> <p>12 rotation with me?</p> <p>13 A At the beginning of the week.</p> <p>14 Q No. So let's refer to Exhibit</p> <p>15 24?</p> <p>16 DR. WEINFELD: So what's the</p> <p>17 question?</p> <p>18 DR. VARUGHESE: So this is Dr.</p> <p>19 Firpa e-mailing Dr. Najfeld the details</p> <p>20 of the cytogenetics rotations and what</p> <p>21 she has to do with any resident that</p> <p>22 happens to be on her -- on that</p> <p>23 particular elective or that rotation.</p> <p>24 DR. WEINFELD: So what's the</p> <p>25 question?</p>	<p style="text-align: right;">Page 96</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. VARUGHESE: On Monday</p> <p>3 afternoon, on Monday evening and I</p> <p>4 wasn't sure if she was even returning</p> <p>5 that evening because she wasn't in her</p> <p>6 office when I got there.</p> <p>7 THE WITNESS: I'm sorry, I think</p> <p>8 there is a lot of discrepancy in what</p> <p>9 you are saying.</p> <p>10 And I could probably document this</p> <p>11 further.</p> <p>12 It doesn't matter at this point, we</p> <p>13 give the cases, you took the beginning of</p> <p>14 the week off, you were not in the lab in</p> <p>15 order to prepare the case we are talking</p> <p>16 about it.</p> <p>17 So, it cannot be the truth that I</p> <p>18 gave you the case on Thursday.</p> <p>19 I would not have given you a case</p> <p>20 on Thursday and tell you come on Friday</p> <p>21 because I have not done this ever to</p> <p>22 anybody, and I would have not made you an</p> <p>23 exception to the rule.</p> <p>24 That's number one.</p> <p>25 There is no way, I don't want to</p>
<p style="text-align: right;">Page 95</p> <p>1 LEENA VARUGHESE</p> <p>2 Q Then Dr. Najfeld actually I</p> <p>3 think she thinks that she discussed everything</p> <p>4 with me in the beginning of the week, but in</p> <p>5 fact she didn't, she actually only discussed</p> <p>6 everything with me on maybe Friday, I think</p> <p>7 Friday morning, late Thursday.</p> <p>8 DR. MARIN: What does this have</p> <p>9 to do with that? I'm not understanding?</p> <p>10 DR. VARUGHESE: That Dr. Najfeld</p> <p>11 was given the tumor cytogenetics</p> <p>12 requirement rotation -- rotation</p> <p>13 requirements on Thursday, she discussed</p> <p>14 everything pertaining to the rotation</p> <p>15 requirements with me on Thursday</p> <p>16 afternoon and gave me the assignment to</p> <p>17 present this case for Tuesday on</p> <p>18 Thursday afternoon.</p> <p>19 DR. WEINFELD: Right, okay.</p> <p>20 DR. VARUGHESE: Which doesn't</p> <p>21 really give me as much time as I need</p> <p>22 to --</p> <p>23 DR. WEINFELD: So, how do you</p> <p>24 explain, though, she was willing to stay</p> <p>25 to help you and you didn't even respond?</p>	<p style="text-align: right;">Page 97</p> <p>1 LEENA VARUGHESE</p> <p>2 use the L word here, but this is</p> <p>3 absolutely not reflecting the truth and</p> <p>4 the way my lab functions.</p> <p>5 And I can have the entire lab here</p> <p>6 for that.</p> <p>7 So, that's number one.</p> <p>8 Number two, I am teaching you, if I</p> <p>9 am willing as your senior to stay late in</p> <p>10 order to make your presentation look good,</p> <p>11 I can tell you that when I was a fellow I</p> <p>12 would have never said this to my</p> <p>13 professor.</p> <p>14 Period.</p> <p>15 Lack of respect and</p> <p>16 professionalism.</p> <p>17 DR. WEINFELD: So any other</p> <p>18 questions?</p> <p>19 DR. VARUGHESE: I just want to</p> <p>20 note Dr. Najfeld did e-mail Dr. Firpa</p> <p>21 back and she said she was very busy that</p> <p>22 week and, you know, it has been very</p> <p>23 difficult for us.</p> <p>24 DR. WEINFELD: Okay, noted.</p> <p>25 DR. VARUGHESE: And also on</p>

25 (Pages 94 to 97)

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<p>1 LEENA VARUGHESE</p> <p>2 Monday evening when I e-mailed the</p> <p>3 presentation to her, but I did get her</p> <p>4 messages, the e-mails and the phone</p> <p>5 call, I'm not sure if she called me, but</p> <p>6 it was already 5:30 or so and I was</p> <p>7 already home because I had taken the</p> <p>8 train home at that point, which may</p> <p>9 explain why I didn't receive the page</p> <p>10 from 5:00 to 5:30 or so, and it would be</p> <p>11 impossible for me to have returned to</p> <p>12 Mount Sinai at that point to review with</p> <p>13 her in person, and I think I explained</p> <p>14 that to her at that point and she</p> <p>15 understood.</p> <p>16 THE WITNESS: No.</p> <p>17 MR. McEVOY: There is no</p> <p>18 question.</p> <p>19 DR. WEINFELD: So, next question.</p> <p>20 Q Did you give me an exit</p> <p>21 interview on Friday?</p> <p>22 A No.</p> <p>23 Q You didn't give me an exit</p> <p>24 interview?</p> <p>25 A You were taken -- swept away, so</p>	<p>1 LEENA VARUGHESE</p> <p>2 case, and for that person not to ever to</p> <p>3 come back and tell you I know what it is,</p> <p>4 I better learn this, it's a failure.</p> <p>5 DR. VARUGHESE: Okay, so my</p> <p>6 impression was that you did give me an</p> <p>7 exit interview on Friday because you</p> <p>8 asked me several questions pertaining to</p> <p>9 fish and different translocations</p> <p>10 associated with different diseases and I</p> <p>11 think I answered you pretty competently.</p> <p>12 So my impression was that that was</p> <p>13 the exit interview, and karyotyping these</p> <p>14 10 karyotypes was also a part -- 5 to</p> <p>15 determine that I can adequately karyotype,</p> <p>16 not with expertise with someone who has</p> <p>17 done cytogenetics for 30 or 40 years, no</p> <p>18 one can do that, I mean I don't think</p> <p>19 anybody can do that.</p> <p>20 THE WITNESS: That was not</p> <p>21 expected.</p> <p>22 Q But I did manage to karyotype</p> <p>23 adequately, no?</p> <p>24 DR. MARIN: That was a question.</p> <p>25 She asked you if she did an adequate job</p>
Page 99	Page 101
<p>1 LEENA VARUGHESE</p> <p>2 to speak because, you had to go back to the</p> <p>3 anatomic pathology, we only managed to do five</p> <p>4 karyotypes and I did not give it to you.</p> <p>5 You are 100 percent right.</p> <p>6 DR. BRONHEIM: If you did give</p> <p>7 her an exit interview, what would you</p> <p>8 have told her?</p> <p>9 THE WITNESS: Had I had the</p> <p>10 chance and if it wasn't -- I would have</p> <p>11 really told her just about everything I</p> <p>12 wrote here, I wouldn't change anything.</p> <p>13 I must tell you I am at Sinai 30</p> <p>14 years, this is probably from the</p> <p>15 educational point of view one of the worst</p> <p>16 experiences I ever had had.</p> <p>17 I would have told her that she</p> <p>18 failed.</p> <p>19 Anybody who behaved that way, with</p> <p>20 so little respect for knowledge and so</p> <p>21 little respect for the time we all invest,</p> <p>22 I would not pass her.</p> <p>23 I also feel if you ask somebody to</p> <p>24 go ahead and look overnight what the</p> <p>25 definition of APL is, this is our stat</p>	<p>1 LEENA VARUGHESE</p> <p>2 with the karyotype?</p> <p>3 A No, because she had a supervisor</p> <p>4 sitting behind her and that's when she said I</p> <p>5 don't know what I'm doing here, it's a waste of</p> <p>6 my time.</p> <p>7 DR. MARIN: No is sufficient.</p> <p>8 DR. WEINFELD: Any other</p> <p>9 questions for Dr. Najfeld?</p> <p>10 DR. VARUGHESE: No.</p> <p>11 MR. MacDONALD: Any further</p> <p>12 questions.</p> <p>13 DR. WEINFELD: Any further</p> <p>14 questions from the Department?</p> <p>15 DR. FIRPA: Yes, permission to</p> <p>16 redirect.</p> <p>17</p> <p>18 REDIRECT EXAMINATION BY DR. FIRPA:</p> <p>19</p> <p>20 Q May I bring your attention to</p> <p>21 her Exhibit 24.</p> <p>22 A That's this.</p> <p>23 Q Second page.</p> <p>24 A Your response to me on Thursday</p> <p>25 August 4th, would you please read the second</p>

Page 102	Page 104
<p>1 LEENA VARUGHESE</p> <p>2 sentence in that e-mail?</p> <p>3 A Oh, thank you, the second</p> <p>4 sentence says, "We have given her to read and</p> <p>5 told her about the case presentation for the</p> <p>6 next week."</p> <p>7 So I told you this on August</p> <p>8 4th.</p> <p>9 DR. VARUGHESE: So you told me at</p> <p>10 least on August 4th?</p> <p>11 THE WITNESS: Okay, not on</p> <p>12 Thursday, a week later.</p> <p>13 DR. VARUGHESE: But I don't think</p> <p>14 you told me.</p> <p>15 THE WITNESS: You've got to be</p> <p>16 truthful; it pays in life, trust me.</p> <p>17 DR. VARUGHESE: But you didn't</p> <p>18 tell me on Tuesday.</p> <p>19 THE WITNESS: I am reading from</p> <p>20 Exhibit --</p> <p>21 DR. VARUGHESE: 24, you are</p> <p>22 saying that you cannot --</p> <p>23 THE WITNESS: We have given her</p> <p>24 to -- this is August 4th, Thursday.</p> <p>25 DR. WEINFELD: Thursday.</p>	<p>1 LEENA VARUGHESE</p> <p>2 do you deny saying that this rotation</p> <p>3 was a waste of time?</p> <p>4 DR. VARUGHESE: Yes.</p> <p>5 DR. WEINFELD: Okay.</p> <p>6 DR. VARUGHESE: I didn't think</p> <p>7 the rotation was a waste of time at all.</p> <p>8 In fact, I offered to work further</p> <p>9 with her in the future on another two</p> <p>10 weeks if she felt that my competency level</p> <p>11 on cytogenetics was not adequate and I</p> <p>12 said this to Dr. Firpa after the</p> <p>13 conference the following Tuesday morning.</p> <p>14 I also offered to write a paper</p> <p>15 because I had a very interesting case that</p> <p>16 was in my first year on pediatric</p> <p>17 pathology that I had this case where they</p> <p>18 covered a novel translocation.</p> <p>19 So I actually was interested in</p> <p>20 that particular case and I was considering</p> <p>21 writing it up, but I just didn't feel</p> <p>22 comfortable after this approaching her</p> <p>23 about it.</p> <p>24 DR. WEINFELD: Any other</p> <p>25 questions for Dr. Najfeld, or can we</p>
Page 103	Page 105
<p>1 LEENA VARUGHESE</p> <p>2 DR. MARIN: This does not</p> <p>3 identify the time that it was given.</p> <p>4 THE WITNESS: Okay, I'm so sorry.</p> <p>5 DR. MARIN: It validates at least</p> <p>6 by Thursday it was done.</p> <p>7 DR. VARUGHESE: Or at least she</p> <p>8 planned on telling me.</p> <p>9 DR. BRONHEIM: No, it says, "We</p> <p>10 have given her."</p> <p>11 DR. VARUGHESE: "We have given</p> <p>12 her to read and told her about the</p> <p>13 presentation for the next week."</p> <p>14 DR. MARIN: But you are cc'd on</p> <p>15 this e-mail, so you would have received</p> <p>16 this then.</p> <p>17 DR. VARUGHESE: Yes.</p> <p>18 DR. MARIN: So.</p> <p>19 DR. VARUGHESE: My point is she</p> <p>20 was saying she was very busy with</p> <p>21 equipment upgrades and this is after Dr.</p> <p>22 Firpa sent her this e-mail asking her to</p> <p>23 discuss cytogenetic requirements with</p> <p>24 me.</p> <p>25 DR. WEINFELD: I have a question,</p>	<p>1 LEENA VARUGHESE</p> <p>2 excuse the witness?</p> <p>3 Thank you.</p> <p>4 DR. BRONHEIM: Thank you very</p> <p>5 much for your time.</p> <p>6 MR. MacDONALD: Steve, maybe we</p> <p>7 need to take a witness out of sequence,</p> <p>8 Dr. Varughese, Scott Barnett whom you</p> <p>9 have called as a witness has to leave by</p> <p>10 8:00 or 8:15, maybe we should take him</p> <p>11 out of sequence so that --</p> <p>12 DR. WEINFELD: He's being called</p> <p>13 by the Pathology Department?</p> <p>14 MR. MacDONALD: By Dr. Varughese,</p> <p>15 but --</p> <p>16 DR. WEINFELD: At this rate we</p> <p>17 probably should, if that's okay.</p> <p>18 MR. MacDONALD: So is that okay</p> <p>19 if we do that?</p> <p>20 DR. FIRPA: No objections.</p> <p>21 MR. MacDONALD: Okay.</p> <p>22 I think we should try to</p> <p>23 accommodate, obviously, as many of the</p> <p>24 witnesses as possible given the schedule</p> <p>25 and the time, et cetera.</p>

27 (Pages 102 to 105)

<p style="text-align: right;">Page 106</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. VARUGHESE: So I am a little</p> <p>3 bit concerned now, it's 7:36, it's past</p> <p>4 7:30 p.m., so --</p> <p>5 DR. WEINFELD: What's your</p> <p>6 question.</p> <p>7 DR. VARUGHESE: How long do you</p> <p>8 think this process will take, or do we</p> <p>9 convene on another day if --</p> <p>10 MR. MacDONALD: Well, we should</p> <p>11 go as far as we can go, and the</p> <p>12 Department has several more witnesses.</p> <p>13 DR. MARIN: You have 20 witnesses</p> <p>14 that you called in to hear that we</p> <p>15 should really --</p> <p>16 MR. MacDONALD: You have 20, the</p> <p>17 Department has -- we want to take Scott</p> <p>18 Barnett out of sequence because he has</p> <p>19 to leave at 8:15.</p> <p>20 He is Dr. Varughese' witness and I</p> <p>21 understand that you have no objection, so</p> <p>22 we should bring him in here and let him</p> <p>23 testify.</p> <p>24 MR. McEVOY: Just so the</p> <p>25 Committee is aware, there is another</p>	<p style="text-align: right;">Page 108</p> <p>1 LEENA VARUGHESE</p> <p>2 follows:</p> <p>3</p> <p>4 DR. WEINFELD: This is Dr.</p> <p>5 Varughese' witness, but obviously the</p> <p>6 Department will have a chance to ask</p> <p>7 questions as well.</p> <p>8 Why don't we proceed.</p> <p>9</p> <p>10 DIRECT EXAMINATION BY DR. VARUGHESE:</p> <p>11</p> <p>12 Q Thank you for appearing.</p> <p>13 So my question, have I brought</p> <p>14 concerns to you over the past year or so?</p> <p>15 A Yes. I believe we met at least</p> <p>16 twice.</p> <p>17 DR. MARIN: When were the dates</p> <p>18 of those, is it over a year that's been</p> <p>19 going on?</p> <p>20 THE WITNESS: I would have to</p> <p>21 consult my calendar. I could look it</p> <p>22 up, but I don't have the dates in front</p> <p>23 of me.</p> <p>24 DR. LEITER: Prior to August?</p> <p>25 THE WITNESS: Certainly if you</p>
<p style="text-align: right;">Page 107</p> <p>1 LEENA VARUGHESE</p> <p>2 witness here who is Dr. Varughese'</p> <p>3 witness who I don't know what her</p> <p>4 schedule is, but there are a whole bunch</p> <p>5 of folks here who have other things to</p> <p>6 do.</p> <p>7 So I don't have an objection to</p> <p>8 Dr. Barnett, but I do have an objection to</p> <p>9 presenting this case out of sequence other</p> <p>10 than for Dr. Barnett, and I'll be candid,</p> <p>11 Karen Tiger is here as her witness.</p> <p>12 If Ms. Tiger goes on at 1:00 this</p> <p>13 morning, if she goes on at 1:00 this</p> <p>14 morning there is no reason why the</p> <p>15 witnesses for the Department should be any</p> <p>16 more inconvenienced than the witnesses for</p> <p>17 Dr. Varughese.</p> <p>18 So I have no objection to</p> <p>19 Dr. Barnett, but that's the only witness</p> <p>20 that I don't have an objection to being</p> <p>21 out of sequence.</p> <p>22</p> <p>23 SCOTT BARNETT, called as a</p> <p>24 witness, having been first duly sworn by</p> <p>25 witness was examined and testified as</p>	<p style="text-align: right;">Page 109</p> <p>1 LEENA VARUGHESE</p> <p>2 wish to I could look it up.</p> <p>3 DR. MARIN: Yes.</p> <p>4 DR. BRONHEIM: Is there any time</p> <p>5 after August?</p> <p>6 THE WITNESS: Same response, I</p> <p>7 have to look it up.</p> <p>8 DR. WEINFELD: Dr. Varughese, do</p> <p>9 you have any dates that would make it</p> <p>10 easier?</p> <p>11 DR. VARUGHESE: Yes, September 11</p> <p>12 we met at noon.</p> <p>13 DR. WEINFELD: September 11 of</p> <p>14 this year.</p> <p>15 DR. WEINFELD: Scott, does that</p> <p>16 click with your calendar?</p> <p>17 THE WITNESS: I have Monday, May</p> <p>18 16th is the first time and I have</p> <p>19 September 12th or September 11th was a</p> <p>20 Sunday.</p> <p>21 DR. WEINFELD: Okay.</p> <p>22 THE WITNESS: Those are the two</p> <p>23 dates.</p> <p>24 DR. WEINFELD: Go ahead.</p> <p>25 DR. BRONHEIM: Could you just</p>

<p style="text-align: right;">Page 110</p> <p>1 LEENA VARUGHESE</p> <p>2 state for the record in what capacity?</p> <p>3 THE WITNESS: I am the Associate</p> <p>4 Dean for Graduate Medical Education and</p> <p>5 our office oversees the residency and</p> <p>6 fellowships here and at our affiliated</p> <p>7 institutions.</p> <p>8 Q So, did I bring a concern to you</p> <p>9 about my concern about being treated fairly</p> <p>10 while I was on disciplinary action to you?</p> <p>11 A You did.</p> <p>12 Q Can I ask what you thought about</p> <p>13 that?</p> <p>14 Is that a question that I can</p> <p>15 ask what you thought about?</p> <p>16 A Well, if you ask me what I</p> <p>17 thought about your coming to me, I'm certainly</p> <p>18 happy to meet with all house officers and make</p> <p>19 it very clear, orientation and Chief Residents</p> <p>20 are told in every forum that I am among the</p> <p>21 resources that are offered to house staff who</p> <p>22 have concerns about their training, including,</p> <p>23 among others, the institutional ombudsman, Dr.</p> <p>24 Stimmel and Human Resources, but I'm certainly</p> <p>25 always happy to meet with house staff.</p>	<p style="text-align: right;">Page 112</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. FIRPA: No questions.</p> <p>3 DR. WEINFELD: Scott, thank you</p> <p>4 very much.</p> <p>5 THE WITNESS: You are quite</p> <p>6 welcome.</p> <p>7 DR. WEINFELD: Let's get back to</p> <p>8 our regular scheduled witness schedule.</p> <p>9 MR. MacDONALD: Can we go off the</p> <p>10 record.</p> <p>11 (Discussion off the record.)</p> <p>12</p> <p>13 A D R I E N N E C. J O R D A N, called</p> <p>14 as a witness, having been first duly sworn</p> <p>15 by the Notary Public, was examined and</p> <p>16 testified as follows:</p> <p>17</p> <p>18 DIRECT EXAMINATION BY DR. FIRPA:</p> <p>19</p> <p>20 Q Would you please state your job</p> <p>21 title?</p> <p>22 A I am a postgraduate year 3</p> <p>23 anatomic and clinical pathology resident, as</p> <p>24 well as Chief Resident of the Department of</p> <p>25 Pathology, one of the Chief Residents.</p>
<p style="text-align: right;">Page 111</p> <p>1 LEENA VARUGHESE</p> <p>2 Q So I told you I was concerned</p> <p>3 about Dr. Firpa not being able to oversee the</p> <p>4 disciplinary action?</p> <p>5 A I don't recall that, but, I do</p> <p>6 remember you talking to me and having concerns</p> <p>7 and I explained to you that my role in the</p> <p>8 institution, as I understand it, is to make</p> <p>9 sure that institutional and departmental</p> <p>10 policies and procedures were being adhered to</p> <p>11 and that I was not a judge or a jury, but my</p> <p>12 job was to ensure that people were being</p> <p>13 treated fairly and that I either at that first</p> <p>14 meeting or second meeting, I do remember</p> <p>15 stating that in my view that I did feel that</p> <p>16 departmental policies and procedures were being</p> <p>17 followed.</p> <p>18 Q What's your opinion of the</p> <p>19 Department of Pathology?</p> <p>20 DR. WEINFELD: That's not</p> <p>21 relevant, I'm going to direct him not to</p> <p>22 answer that question.</p> <p>23 What other questions do you have?</p> <p>24 DR. VARUGHESE: That's all.</p> <p>25 DR. MARIN: Thank you.</p>	<p style="text-align: right;">Page 113</p> <p>1 LEENA VARUGHESE</p> <p>2 Q And your formal employment is?</p> <p>3 A Sorry?</p> <p>4 Q And you are employed by?</p> <p>5 A Mount Sinai Hospital.</p> <p>6 Q What year of residency are you</p> <p>7 in?</p> <p>8 DR. WEINFELD: She already said</p> <p>9 that.</p> <p>10 Q Do you know Dr. Varughese?</p> <p>11 A I do.</p> <p>12 Q Would you describe your job</p> <p>13 duties as part of the responsibility of Chief</p> <p>14 Resident.</p> <p>15 A I am charged with enforcing and</p> <p>16 making sure that Department and hospital</p> <p>17 policies, institutional policies are equally</p> <p>18 distributed -- equally enforced amongst all the</p> <p>19 residents, as well as ensuring appropriate</p> <p>20 supervision of our junior residents, basically</p> <p>21 arranging for coverage and that sort of thing</p> <p>22 when a resident is absent, scheduling issues</p> <p>23 and things of that nature.</p> <p>24 Q How do you know Dr. Varughese?</p> <p>25 A She was one of our postgraduate</p>

<p style="text-align: right;">Page 114</p> <p>1 LEENA VARUGHESE</p> <p>2 year 4 residents in the pathology program.</p> <p>3 Q Did you have any problem over</p> <p>4 coverage issues on August 5th?</p> <p>5 A I had a resident call out sick</p> <p>6 on August 5th. Unfortunately this resident had</p> <p>7 been ill multiple times during her surgical</p> <p>8 pathology month and so we have a policy in</p> <p>9 place for residents who call out sick.</p> <p>10 Basically it dictates an order</p> <p>11 in which we pull residents to cover our other</p> <p>12 services so that we have the same residents</p> <p>13 aren't getting asked to cover over and over</p> <p>14 again.</p> <p>15 Because this resident had been</p> <p>16 out so many times, I had now gotten down to the</p> <p>17 rotation where Dr. Varughese had to cover for</p> <p>18 the absent resident.</p> <p>19 Q Was Dr. Varughese aware of this</p> <p>20 and of other departmental policies and if so,</p> <p>21 how?</p> <p>22 A She was aware, we discussed the</p> <p>23 new policies that were going into place for the</p> <p>24 year at a resident meeting, which Dr. Varughese</p> <p>25 was not able to make, she was on vacation, it</p>	<p style="text-align: right;">Page 116</p> <p>1 LEENA VARUGHESE</p> <p>2 Q Did you need Dr. Varughese to</p> <p>3 cover the the frozen section room on August</p> <p>4 5th?</p> <p>5 A I did.</p> <p>6 Q Why?</p> <p>7 A The residents, like I said, had</p> <p>8 called out sick multiple times, I had rotated</p> <p>9 through several other residents in order of the</p> <p>10 policy and the next person to be pulled</p> <p>11 according to the policy was Dr. Varughese.</p> <p>12 Q How did you tell Dr. Varughese</p> <p>13 that she needed to cover the service?</p> <p>14 A I contacted her by e-mail -- I</p> <p>15 contacted her by e-mail, I'm not entirely</p> <p>16 positive if it was the night before or the</p> <p>17 morning of.</p> <p>18 Q What was her response to that</p> <p>19 e-mail?</p> <p>20 A She said that her initial</p> <p>21 response was she could not cover.</p> <p>22 Q Did she cover frozen sections on</p> <p>23 that day?</p> <p>24 A No, she did not.</p> <p>25 Q Why not?</p>
<p style="text-align: right;">Page 115</p> <p>1 LEENA VARUGHESE</p> <p>2 was an excused absence, but she did sign the</p> <p>3 resident meeting minute acknowledgment sheet,</p> <p>4 I'm sorry, I believe she did, I'm not 100</p> <p>5 percent sure on that, but she did sign the</p> <p>6 acknowledgment of Department policies</p> <p>7 acknowledging she did receive them and she was</p> <p>8 aware.</p> <p>9 Q Would you refer to Exhibit</p> <p>10 number 17? Department Exhibit 17.</p> <p>11 Would you browse through the</p> <p>12 content of the exhibit and describe in your own</p> <p>13 words briefly what they represent?</p> <p>14 A The first page is Dr. Varughese'</p> <p>15 acknowledgment of the Department policies,</p> <p>16 there are six policies listed that she</p> <p>17 acknowledged the procedure if she had to make a</p> <p>18 schedule change, absent a coverage policy,</p> <p>19 which was the one I just referenced, which</p> <p>20 dictates the order in which we pull residents</p> <p>21 whenever they are absent, morning conference</p> <p>22 attendance policy, corrective action policy, as</p> <p>23 well as reviewing the resident meeting minutes</p> <p>24 and acknowledging them and transitions of care</p> <p>25 and the pages that follow are those policies.</p>	<p style="text-align: right;">Page 117</p> <p>1 LEENA VARUGHESE</p> <p>2 A In subsequent e-mails she told</p> <p>3 me that she had an injury to her arm and that</p> <p>4 she would not be able to perform those duties</p> <p>5 due to her jury.</p> <p>6 Q Did she ever provide proof of</p> <p>7 had her alleged injury?</p> <p>8 A No.</p> <p>9 Q Would you refer to Exhibit 6,</p> <p>10 Department Exhibit 6, browse through them and</p> <p>11 describe in your own words what they represent</p> <p>12 or document?</p> <p>13 A That's my communication with Dr.</p> <p>14 Varughese on -- starting on the Thursday August</p> <p>15 4th, the night before I needed her to cover</p> <p>16 asking her to cover, her subsequent e-mails</p> <p>17 back describing her injury and how it limited</p> <p>18 her ability to cover frozen sections for that</p> <p>19 Friday afternoon, and then her subsequent</p> <p>20 suggestions to me that in the past we had</p> <p>21 had -- the Chief Residents just asked residents</p> <p>22 to cover and didn't dictate it.</p> <p>23 I explained to her in another</p> <p>24 portion of the e-mail that we were no longer</p> <p>25 were asking residents to cover because</p>

30 (Pages 114 to 117)

<p style="text-align: right;">Page 118</p> <p>1 LEENA VARUGHESE</p> <p>2 unfortunately the same residents would get</p> <p>3 pulled over and over, only the residents who</p> <p>4 would agree to cover.</p> <p>5 The new policy made it easier</p> <p>6 for the Chief Residents to find coverage so</p> <p>7 that we didn't have to ask a whole bunch of</p> <p>8 different people, it was already laid out who</p> <p>9 would be pulled.</p> <p>10 Q Did you ever ask Dr. Varughese</p> <p>11 to submit proof of her injury?</p> <p>12 A I did.</p> <p>13 Q Did she ever -- did you ever</p> <p>14 find out why she was, in fact, injured or</p> <p>15 submitted proof of that?</p> <p>16 A To the best of my knowledge she</p> <p>17 never submitted proof and I am not aware what</p> <p>18 the extent of her injury was.</p> <p>19 Q Did you need Dr. Varughese to</p> <p>20 cover surgical pathology service on August</p> <p>21 12th?</p> <p>22 A Yes.</p> <p>23 Q Why?</p> <p>24 A Again, I had a resident who</p> <p>25 called out sick for that day and the service</p>	<p style="text-align: right;">Page 120</p> <p>1 LEENA VARUGHESE</p> <p>2 to see if he could possibly get ahold of Dr.</p> <p>3 Varughese since I was very concerned about the</p> <p>4 service being covered and making sure that the</p> <p>5 specimens were processed.</p> <p>6 I asked him to step in and see</p> <p>7 if he could contact her to find out if she</p> <p>8 would cover the service.</p> <p>9 Q What did he do?</p> <p>10 A To the best of my knowledge,</p> <p>11 what I was told is he paged her.</p> <p>12 Q Did she cover surgicals that</p> <p>13 day?</p> <p>14 A Yes.</p> <p>15 Q Did she ever respond to your</p> <p>16 e-mails?</p> <p>17 A No.</p> <p>18 Q Refer to Exhibit 7 and 8.</p> <p>19 Browse through them and describe briefly what</p> <p>20 they represent.</p> <p>21 DR. BRONHEIM: Before we leave</p> <p>22 Exhibit 7, I see that there is a message</p> <p>23 from Dr. Adrienne to Dr. Morency.</p> <p>24 You covered about 15 differen --</p> <p>25 you cc'd about 15 different people.</p>
<p style="text-align: right;">Page 119</p> <p>1 LEENA VARUGHESE</p> <p>2 required coverage.</p> <p>3 Q Why was Dr. Varughese</p> <p>4 specifically assigned to cover surgical on that</p> <p>5 day?</p> <p>6 A Since I did -- I assigned</p> <p>7 another resident rather than her to cover</p> <p>8 frozen sections, the next person up in rotation</p> <p>9 would logically be her, since she was passed</p> <p>10 over due to her injury, the next time somebody</p> <p>11 needed coverage she was the first go to person.</p> <p>12 Q Did you attempt to contact Dr.</p> <p>13 Varughese to tell her that she needed to cover</p> <p>14 surgical?</p> <p>15 A I did, I contacted her via</p> <p>16 e-mail.</p> <p>17 Q Did Dr. Varughese respond to</p> <p>18 your e-mails or page?</p> <p>19 A No.</p> <p>20 Q What did you do?</p> <p>21 A I contacted Dr. Lento via phone,</p> <p>22 I was doing all of this remotely I was on an</p> <p>23 away elective at the time, so I was contacting</p> <p>24 him.</p> <p>25 I contacted Dr. Lento via phone</p>	<p style="text-align: right;">Page 121</p> <p>1 LEENA VARUGHESE</p> <p>2 Would you explain why you made such</p> <p>3 an extensive list? I am on page -- sorry</p> <p>4 Dr. Adrienne.</p> <p>5 DR. WEINFELD: Of that exhibit?</p> <p>6 DR. BRONHEIM: Yes.</p> <p>7 THE WITNESS: Yes, I can.</p> <p>8 Dr. Morency was cc'd because she's my</p> <p>9 co-Chief, Dr. Blau was the resident who</p> <p>10 was sick, so she is on there so that she</p> <p>11 knew who covered for her.</p> <p>12 A lot of times the residents like</p> <p>13 to say thank you for covering when I was</p> <p>14 out, so she was cc'd on that, Dr. Firpa</p> <p>15 and Dr. Lento because they are the program</p> <p>16 directors respectively, Dr. Blejwas</p> <p>17 because he is the head of anatomic</p> <p>18 pathology, and since I was also commenting</p> <p>19 on the biopsies being covered that day he</p> <p>20 needed to be aware of the situation.</p> <p>21 Dr. Grunis was Dr. Blau's surgical</p> <p>22 partner, she needed to be aware of what</p> <p>23 the coverage was because in the afternoon</p> <p>24 whenever the -- I'm sorry, I'm going too</p> <p>25 fast.</p>

31 (Pages 118 to 121)

<p style="text-align: right;">Page 122</p> <p>1 LEENA VARUGHESE</p> <p>2 The biopsy frozen resident does</p> <p>3 biopsies in the morning then -- they are</p> <p>4 partnered, does frozen in the afternoon</p> <p>5 then midday they switch, Dr. Grunis would</p> <p>6 be signing over the rest of the biopsies</p> <p>7 that hadn't gotten signed out to whoever</p> <p>8 her partner was for that day.</p> <p>9 Since Dr. Blau, her normal partner,</p> <p>10 was out, I was asking Dr. Varughese to</p> <p>11 step in, I wanted Dr. Grunis to be aware</p> <p>12 of who she would be exchanging the</p> <p>13 biopsies with.</p> <p>14 So that's why she's on there.</p> <p>15</p> <p>16 DR. BRONHEIM: So, would you say</p> <p>17 that Dr. Varughese not agreeing or not</p> <p>18 being available to cover created a great</p> <p>19 deal of complicated rescheduling?</p> <p>20 THE WITNESS: It was complicated</p> <p>21 to reschedule her, yes, but I did not</p> <p>22 include these people on the subsequent</p> <p>23 e-mails.</p> <p>24 Once I sent out that general e-mail</p> <p>25 these people were dropped to just a few</p>	<p style="text-align: right;">Page 124</p> <p>1 LEENA VARUGHESE</p> <p>2 where I'm trying to follow up on the fact that</p> <p>3 Dr. Varughese hasn't yet responded to my e-mail</p> <p>4 for coverage.</p> <p>5 Like I said, I was off-site</p> <p>6 during this time, so I really needed to make</p> <p>7 sure that patients weren't being put at risk by</p> <p>8 their specimens not being processed.</p> <p>9 So I was contacting the program</p> <p>10 director to make sure that she was covering and</p> <p>11 then one of the e-mails is Dr. Lento's response</p> <p>12 back to me saying he instructed Dr. Varughese</p> <p>13 to contact me to let me know she would cover,</p> <p>14 and she never did.</p> <p>15 Q What is is Department number 8?</p> <p>16 A Exhibit 8 is my e-mail to Dr.</p> <p>17 Najfeld where I'm asking if Leena had come in,</p> <p>18 Dr. Varughese had come in for the day because I</p> <p>19 was getting concerned for the service and I</p> <p>20 also knew that Dr. Najfeld had an appointment</p> <p>21 later in the morning, and needed to meet with</p> <p>22 her earlier in the day, so I was concerned for</p> <p>23 everybody's time.</p> <p>24 Q Now, is there a policy regarding</p> <p>25 attendance to core conferences in the</p>
<p style="text-align: right;">Page 123</p> <p>1 LEENA VARUGHESE</p> <p>2 people who were intricately involved.</p> <p>3 DR. BRONHEIM: Okay.</p> <p>4 Q Any comments on Exhibits 7 and</p> <p>5 8.</p> <p>6 Now is there a --</p> <p>7 A Sorry, I am still reading 7 and</p> <p>8 8.</p> <p>9 Q What is Department Exhibit 7</p> <p>10 first?</p> <p>11 A Exhibit 7 is my e-mail to Dr.</p> <p>12 Varughese and several other people asking her</p> <p>13 to cover for an absent resident on surgical</p> <p>14 service that day.</p> <p>15 The other people included on the</p> <p>16 e-mail are other people that asked to step in</p> <p>17 and help in the gross room, so that way Dr.</p> <p>18 Varughese wouldn't be overwhelmed with the</p> <p>19 grossing responsibilities for that day and she</p> <p>20 could at least somewhat participate in her</p> <p>21 normally scheduled rotation.</p> <p>22 Q And would you turn over to</p> <p>23 Department Exhibit 8?</p> <p>24 A The rest of Exhibit 7 is my</p> <p>25 communications with Dr. Najfeld and Dr. Lento</p>	<p style="text-align: right;">Page 125</p> <p>1 LEENA VARUGHESE</p> <p>2 Department as part of the program?</p> <p>3 A There is.</p> <p>4 Q Would you explain it, please?</p> <p>5 A May I refer to the exhibit real</p> <p>6 quick?</p> <p>7 Q Sure.</p> <p>8 A That was Exhibit Department 6,</p> <p>9 right?</p> <p>10 MR. McEVOY: The policy?</p> <p>11 THE WITNESS: Yes.</p> <p>12 MR. McEVOY: 17.</p> <p>13 A Department Exhibit 17, so the</p> <p>14 policy for morning conference attendance to</p> <p>15 ensure that the residents receive a complete</p> <p>16 academic curriculum during their program time</p> <p>17 here, they are required to attend conference</p> <p>18 per ACGME guidelines.</p> <p>19 There is a sign-up sheet out in</p> <p>20 the morning whenever there is conference at</p> <p>21 8:00 a.m. and if they fail to -- while nobody</p> <p>22 is perfect, we allow an 80 percent conference</p> <p>23 rate, basically allowing the residents to miss</p> <p>24 one conference a week to allow for things like</p> <p>25 sleeping in, traffic, doctors appointments and</p>

<p style="text-align: right;">Page 126</p> <p>1 LEENA VARUGHESE</p> <p>2 so on.</p> <p>3 If they fail to meet that 80</p> <p>4 percent level there are penalties, if they fail</p> <p>5 between the 60 and 80 percent averaged over the</p> <p>6 four week block, then they have to prepare one</p> <p>7 lecture.</p> <p>8 DR. WEINFELD: We can read this,</p> <p>9 let's keep going. It's not your fault</p> <p>10 let's move along.</p> <p>11 This is going to take forever,</p> <p>12 let's move it.</p> <p>13 Q Did Dr. Varughese ever fail to</p> <p>14 meet the 80 percent required?</p> <p>15 A Yes.</p> <p>16 Q What happened?</p> <p>17 A My co-Chief, Dr. Morency,</p> <p>18 e-mailed her and explained to her, she had</p> <p>19 fallen below the 80 percent conference</p> <p>20 attendance for period 2 and that she would be</p> <p>21 required to give a make-up lecture at a later</p> <p>22 date, and I believe that e-mail also stated</p> <p>23 which date Dr. Varughese was assigned.</p> <p>24 Q Did she ever respond to</p> <p>25 Dr. Morency's e-mails?</p>	<p style="text-align: right;">Page 128</p> <p>1 LEENA VARUGHESE</p> <p>2 Q And what happened then?</p> <p>3 A She came into morning</p> <p>4 conference, as there was another resident</p> <p>5 presenting that morning, she came in for</p> <p>6 lecture at 8:00 a.m.</p> <p>7 Lecture starts at 8:00 a.m., she</p> <p>8 came in at 8:15 and sat down and when the first</p> <p>9 resident completed their presentation at 8:30,</p> <p>10 we were waiting for her to transition up to the</p> <p>11 podium to give her presentation and she walked</p> <p>12 out.</p> <p>13 Q Is there a policy in place</p> <p>14 requiring proof of illness for failing to</p> <p>15 fulfill tasks required as part of the job?</p> <p>16 A Yes. Anything that requires a</p> <p>17 violation in Department policy, for example,</p> <p>18 not covering the service whenever it's your</p> <p>19 turn in the rotation does require</p> <p>20 documentation.</p> <p>21 Q Did she provide any proof of</p> <p>22 illness on those days she failed to present?</p> <p>23 A No.</p> <p>24 Q Would you refer to Exhibits 9</p> <p>25 and 10, Department Exhibits 9 and 10. First</p>
<p style="text-align: right;">Page 127</p> <p>1 LEENA VARUGHESE</p> <p>2 A Not at that time, later, about a</p> <p>3 month later she did.</p> <p>4 Whenever I followed up in</p> <p>5 another e-mail asking what her topic was.</p> <p>6 Q Did Dr. Varughese fail to</p> <p>7 respond to subsequent follow-up e-mails from</p> <p>8 Dr. Morency and you?</p> <p>9 A I'm not sure what the time line</p> <p>10 of her response was, she eventually did respond</p> <p>11 with topics that she wished to present and as</p> <p>12 Chief Residents Elizabeth and I discussed her</p> <p>13 topics and we felt that they weren't to the</p> <p>14 level of a PGY 4 resident, so we did not</p> <p>15 approve the topics and made some alternate</p> <p>16 suggestions for things that she could present.</p> <p>17 Q Do you recall ever her calling</p> <p>18 in sick after being scheduled to present on</p> <p>19 September 13 or 14?</p> <p>20 A Yes, September 13th was the</p> <p>21 first date she was assigned to give her penalty</p> <p>22 conference, she did call out sick that day.</p> <p>23 Q What happened then?</p> <p>24 A I rescheduled her for September</p> <p>25 14th.</p>	<p style="text-align: right;">Page 129</p> <p>1 LEENA VARUGHESE</p> <p>2 Department Exhibit 9, briefly describe what</p> <p>3 they represent?</p> <p>4 A It's a series of e-mails, my</p> <p>5 first e-mail being that is Dr. Varughese had to</p> <p>6 acknowledge the resident meeting minutes for</p> <p>7 the resident meeting that took place on August</p> <p>8 26th, I send out the minutes within two weeks</p> <p>9 after the meeting, then the residents have two</p> <p>10 weeks to sign the acknowledgment sheet that</p> <p>11 they approved the minutes meeting and they are</p> <p>12 aware of that content.</p> <p>13 We discuss serious material at</p> <p>14 these meetings that we need the residents to be</p> <p>15 aware of, so they must acknowledge it.</p> <p>16 Then it's an e-mail from you</p> <p>17 asking her to comply with the Chief Residents</p> <p>18 according to ACGME guidelines and our</p> <p>19 Department policies.</p> <p>20 And then it's another e-mail</p> <p>21 from me to Dr. Varughese asking her, thanking</p> <p>22 her for her acknowledgment of the meeting</p> <p>23 minutes, but also asking her for her topic of</p> <p>24 the penalty conference which she was scheduled</p> <p>25 for at that time to be on September 13th, which</p>

<p style="text-align: right;">Page 130</p> <p>1 LEENA VARUGHESE</p> <p>2 was the day she called out sick.</p> <p>3 Q Go to Department Exhibit 10.</p> <p>4 A The first e-mail is the one that</p> <p>5 was sent at the end of August from Dr. Morency</p> <p>6 informing Dr. Varughese that she fell below the</p> <p>7 80 percent level of conference attendance for</p> <p>8 period 2, and will be required to give a</p> <p>9 make-up conference on September 14th, but I</p> <p>10 believe that was a mistake in the dating, I</p> <p>11 believe Dr. Morency actually meant Wednesday</p> <p>12 September 13th, but I would have to look at the</p> <p>13 calendar, I'm sorry.</p> <p>14 The next e-mail is from Dr.</p> <p>15 Varughese on September 13th stating that she</p> <p>16 was not required to be at all the conferences</p> <p>17 because she spoke with Dr. Firpa and she was</p> <p>18 attending other conferences which were of</p> <p>19 educational value to her, and that she was</p> <p>20 requesting a hospital-wide conference list for</p> <p>21 all the available daily conferences in that she</p> <p>22 would present the next day a hodgepodge of all</p> <p>23 the cytology lectures that she missed.</p> <p>24 Then Dr. Firpa responded that</p> <p>25 she can attend as many other conferences as she</p>	<p style="text-align: right;">Page 132</p> <p>1 LEENA VARUGHESE</p> <p>2 Then the last part of that</p> <p>3 exhibit is my response back to her apologizing</p> <p>4 that I thought she was calling out sick for the</p> <p>5 next day and I would correct that, that all the</p> <p>6 residents who needed me while I was on my away</p> <p>7 elective were able to get in touch with me and</p> <p>8 that I could provide her with documentation of</p> <p>9 that.</p> <p>10</p> <p>11 DR. WEINFELD: Why don't we ask a</p> <p>12 question, this is reading through the</p> <p>13 exhibits we all have.</p> <p>14 Q Did Dr. Varughese ever challenge</p> <p>15 your authority as Chief Resident?</p> <p>16 A Yes.</p> <p>17 Q How?</p> <p>18 A Well, in that particular e-mail</p> <p>19 she states that I was essentially not the Chief</p> <p>20 Resident during period 2, when, in fact, I was,</p> <p>21 I was just an off-site Chief Resident.</p> <p>22 Q Was this the only instance in</p> <p>23 which she challenged your authority as Chief</p> <p>24 Resident?</p> <p>25 A No.</p>
<p style="text-align: right;">Page 131</p> <p>1 LEENA VARUGHESE</p> <p>2 wants, but the 8:00 a.m. conferences are still</p> <p>3 mandatory for all residents.</p> <p>4 Then Dr. Varughese called out</p> <p>5 sick for the following day that she was</p> <p>6 supposed to present and that she's not</p> <p>7 qualified to give any real core lecture because</p> <p>8 she's only a resident.</p> <p>9 And then -- I'm sorry, she's not</p> <p>10 calling out sick at this point, I interpreted</p> <p>11 her e-mail as calling out sick, she said she</p> <p>12 wasn't feeling well and wouldn't be able to</p> <p>13 present.</p> <p>14 I then sent an e-mail to</p> <p>15 everyone saying she was calling out sick, I</p> <p>16 presumed when she said I don't feel well that's</p> <p>17 what it meant, and she sends me a response back</p> <p>18 basically stating that I wasn't available for</p> <p>19 the residents in period 2, so I don't know who</p> <p>20 was keeping track of attendance.</p> <p>21 That I am making a hostile work</p> <p>22 environment, that I am dictating who she can</p> <p>23 and cannot talk to and that I should only -- I</p> <p>24 should communicate with her through Dr. Firpa</p> <p>25 in the future.</p>	<p style="text-align: right;">Page 133</p> <p>1 LEENA VARUGHESE</p> <p>2 Q What did you do in each of those</p> <p>3 instances?</p> <p>4 A I responded to her in my</p> <p>5 capacity as Chief Resident and I made sure that</p> <p>6 both Drs. Firpa and Dr. Lento and my co-Chief</p> <p>7 Dr. Morency were aware of the issues.</p> <p>8 DR. FIRPA: I have no further</p> <p>9 questions.</p> <p>10 DR. WEINFELD: Dr. Varughese.</p> <p>11</p> <p>12 CROSS-EXAMINATION BY DR. VARUGHESE:</p> <p>13</p> <p>14 Q So, you were, in fact, not here</p> <p>15 for the period 2?</p> <p>16 A I was not on-site, correct.</p> <p>17 Q So where were you?</p> <p>18 Were you on an away elective?</p> <p>19 DR. WEINFELD: She said she was</p> <p>20 away on an elective, so let's move on.</p> <p>21 Q Was your pager working the</p> <p>22 entire time you were not here?</p> <p>23 A No, there were two weeks where</p> <p>24 my short range pager -- I found out on my first</p> <p>25 day of my rotation did not work, I sent out an</p>

<p style="text-align: right;">Page 134</p> <p>1 LEENA VARUGHESE</p> <p>2 e-mail to all of the residents and the faculty</p> <p>3 stating what my cell phone number was and where</p> <p>4 they could reach me, and I made the Department</p> <p>5 aware of it, and they sent me an overnight -- a</p> <p>6 national-wide pager, but it took about a week</p> <p>7 and a half to get to me, but through that time</p> <p>8 I did send constant e-mails telling everybody</p> <p>9 what my cell phone number was and that they</p> <p>10 could reach me by phone.</p> <p>11 Which several residents did do.</p> <p>12 Q So when was the policy</p> <p>13 acknowledgment due, what date was it due?</p> <p>14 A I don't recall.</p> <p>15 Q When were we supposed to have</p> <p>16 read everything, understood and submitted the</p> <p>17 policy acknowledgment?</p> <p>18 A I don't recall.</p> <p>19 Q Well, okay, let's refer to</p> <p>20 Exhibit 17 by the Department.</p> <p>21 DR. WEINFELD: Tell us what</p> <p>22 policy you want us to refer to, please.</p> <p>23 DR. VARUGHESE: So Exhibit 17</p> <p>24 Page 1, it shows the acknowledgment of</p> <p>25 Department policies and I have signed it</p>	<p style="text-align: right;">Page 136</p> <p>1 LEENA VARUGHESE</p> <p>2 So as of July 1, one of the first</p> <p>3 tasks were to formalize all this general</p> <p>4 ideas into written documents.</p> <p>5 It was scheduled then at a</p> <p>6 residents and fellows meeting to present</p> <p>7 them with the final draft as they were</p> <p>8 consensuated among the established</p> <p>9 policies in other comparable programs with</p> <p>10 the United States.</p> <p>11 DR. WEINFELD: New policies in</p> <p>12 the Department, is that it?</p> <p>13 DR. FIRPA: Many of them were</p> <p>14 already in place, but this is the first</p> <p>15 formal acknowledgment and incorporated</p> <p>16 into the program description.</p> <p>17 A meeting was held, the residents</p> <p>18 voted, she was absent because she was on</p> <p>19 vacation, but upon her return, the package</p> <p>20 was in her mailbox and she was informed as</p> <p>21 everybody was who was absent that this was</p> <p>22 the consensus, and that they had to read</p> <p>23 them and acknowledge receipt by signature.</p> <p>24 The deadline for submitting the</p> <p>25 signature was 8/15 and she waited until</p>
<p style="text-align: right;">Page 135</p> <p>1 LEENA VARUGHESE</p> <p>2 and dated it as of 8/15/2011 that's when</p> <p>3 it was due.</p> <p>4 So, yes, when Dr. Jordan first</p> <p>5 e-mailed me about covering I had, of</p> <p>6 course, just been on vacation, came back,</p> <p>7 I had responsibilities on other rotations,</p> <p>8 I am managing all those.</p> <p>9 No, I did not get to read through</p> <p>10 approximately how many pages, 7 new pages</p> <p>11 of Department policy at that point.</p> <p>12 DR. WEINFELD: Can I ask a</p> <p>13 question, what's the policy on</p> <p>14 acknowledgment of Department policy?</p> <p>15 Is this something that residents</p> <p>16 sign when they first -- when they are PGY</p> <p>17 2, 1, this was signed three months ago, so</p> <p>18 why was this signed three months ago and</p> <p>19 not at the beginning of the residency?</p> <p>20 DR. LEITER: It's new policy.</p> <p>21 DR. WEINFELD: I'm not asking</p> <p>22 you, I'm asking the Department.</p> <p>23 DR. FIRPA: There were policies</p> <p>24 but they were not formalized policies in</p> <p>25 place at the Department.</p>	<p style="text-align: right;">Page 137</p> <p>1 LEENA VARUGHESE</p> <p>2 the very last day to do that.</p> <p>3 DR. WEINFELD: Okay.</p> <p>4 DR. BRONHEIM: Dr. Varughese, you</p> <p>5 are a PGY 4 resident, you have had Chief</p> <p>6 Residents for many years, are you saying</p> <p>7 that a Chief Resident tells you that you</p> <p>8 have to be on call, that it's up to you</p> <p>9 to decide whether or not it's</p> <p>10 appropriate?</p> <p>11 DR. VARUGHESE: No, she had</p> <p>12 e-mailed me the day before and she said</p> <p>13 that, you know, one of the residents was</p> <p>14 calling out sick and I needed to cover</p> <p>15 for this resident for that morning.</p> <p>16 I e-mailed her saying that I</p> <p>17 couldn't because of my arm injury, and</p> <p>18 because I knew I wouldn't be able to</p> <p>19 because of my arm injury I just wanted to</p> <p>20 give her advance notice.</p> <p>21 I didn't explain myself, I just</p> <p>22 told her that I couldn't cover.</p> <p>23 DR. WEINFELD: When they asked</p> <p>24 you for, well this is relevant to this,</p> <p>25 when they asked for documentation of</p>

35 (Pages 134 to 137)

<p style="text-align: right;">Page 138</p> <p>1 LEENA VARUGHESE</p> <p>2 that, how come you didn't provide that?</p> <p>3 DR. VARUGHESE: Well, because I</p> <p>4 was actually at work on Friday, I had</p> <p>5 the arm injury for several days, it</p> <p>6 wasn't something that I just had, and it</p> <p>7 was not something that I went to see a</p> <p>8 doctor for.</p> <p>9 It was, you know, so I don't have a</p> <p>10 doctor's note for that, I actually came</p> <p>11 into work despite all that.</p> <p>12 DR. WEINFELD: The question was</p> <p>13 why didn't you provide documentation</p> <p>14 knowing that that was what was required?</p> <p>15 DR. VARUGHESE: Well, I didn't</p> <p>16 know I was required, actually, to</p> <p>17 provide documentation.</p> <p>18 THE WITNESS: May I say</p> <p>19 something?</p> <p>20 DR. WEINFELD: Sure.</p> <p>21 THE WITNESS: Actually I realize</p> <p>22 that we are physicians and we don't</p> <p>23 always seek a doctor's appointment</p> <p>24 whenever we hurt ourselves, so actually</p> <p>25 whenever I e-mailed Dr. Varughese to ask</p>	<p style="text-align: right;">Page 140</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. BRONHEIM: From the</p> <p>3 Department?</p> <p>4 DR. VARUGHESE: From the</p> <p>5 Department.</p> <p>6 DR. WEINFELD: What's your</p> <p>7 question?</p> <p>8 DR. VARUGHESE: Department</p> <p>9 Exhibit 8 -- not Exhibit 8.</p> <p>10 Anyway, I do explain my injury to</p> <p>11 some extent in an e-mail to Dr. Jordan on</p> <p>12 August 5th when she asked me to cover.</p> <p>13 So, in fact, I did explain to her</p> <p>14 already, I mean beyond that, I --</p> <p>15 DR. WEINFELD: Tell us the e-mail</p> <p>16 you are referring to that you explain</p> <p>17 that.</p> <p>18 DR. ROCCO: Exhibit 6.</p> <p>19 DR. MARIN: Department Exhibit 6.</p> <p>20 DR. ROCCO: I think that's what</p> <p>21 she's trying to find.</p> <p>22 DR. WEINFELD: Looks like second</p> <p>23 page of Exhibit 6, middle of the page,</p> <p>24 Department Exhibit 6..</p> <p>25 DR. VARUGHESE: So, here I just</p>
<p style="text-align: right;">Page 139</p> <p>1 LEENA VARUGHESE</p> <p>2 her for proof of her illness one of my</p> <p>3 options I even gave her was to just</p> <p>4 write a letter herself stating what her</p> <p>5 injuries were and to turn that in and I</p> <p>6 would accept that as proof.</p> <p>7 I trust her as a --</p> <p>8 DR. VARUGHESE: Well, okay.</p> <p>9 DR. WEINFELD: Were you finished?</p> <p>10 Do you want to finish your thought?</p> <p>11 THE WITNESS: I was just going to</p> <p>12 say I was going to accept that as</p> <p>13 documentation of her injury, but to the</p> <p>14 best of my knowledge she didn't turn</p> <p>15 that in either.</p> <p>16 So I wasn't requiring specifically</p> <p>17 a physician's note.</p> <p>18 DR. VARUGHESE: I mean I want to</p> <p>19 refer to the exhibit that relays all</p> <p>20 these e-mails from I'm not sure which</p> <p>21 one that was, was it 7 or 9?</p> <p>22 DR. WEINFELD: Which e-mail are</p> <p>23 you referring to?</p> <p>24 DR. VARUGHESE: I think it was</p> <p>25 Exhibit 7.</p>	<p style="text-align: right;">Page 141</p> <p>1 LEENA VARUGHESE</p> <p>2 say that I don't have -- if I didn't</p> <p>3 have a wrist, hand injury I would be</p> <p>4 happy to oblige.</p> <p>5 DR. MARIN: That doesn't</p> <p>6 constitute an explanation.</p> <p>7 What she's talking about is just</p> <p>8 explaining what happened to your hand why</p> <p>9 you were injured and what the nature of</p> <p>10 the problem is.</p> <p>11 DR. ROCCO: Can you explain why a</p> <p>12 wrist and hand injury would prohibit you</p> <p>13 from taking part in this rotation or the</p> <p>14 coverage for the day in frozen?</p> <p>15 DR. VARUGHESE: So frozen section</p> <p>16 basically involves me cutting, making</p> <p>17 slides to be read, so if -- and handling</p> <p>18 specimens, I have to cut the specimens,</p> <p>19 then processing specimens, and then</p> <p>20 label and everything, so that requires</p> <p>21 some dexterity, so I just didn't feel</p> <p>22 that, you know, I could do that.</p> <p>23 DR. MARIN: Can you explain to us</p> <p>24 what you -- it sounds like you were able</p> <p>25 to go into work that day, what you were</p>

<p style="text-align: right;">Page 142</p> <p>1 LEENA VARUGHESE</p> <p>2 able to do, what rotation you felt like</p> <p>3 you were physically able to do.</p> <p>4 DR. VARUGHESE: In genetics it's</p> <p>5 not a manually, it doesn't require</p> <p>6 manual labor, so I did go to that</p> <p>7 rotation.</p> <p>8 DR. WEINFELD: Okay, let's move</p> <p>9 on.</p> <p>10 Any other questions for Dr. Jordan?</p> <p>11 Q So you said that I have not</p> <p>12 responded to the e-mails from the Chief</p> <p>13 Residents in the past.</p> <p>14 A Yes.</p> <p>15 Q But, in fact, I have and I</p> <p>16 requested a meeting, I was at the VA for</p> <p>17 several weeks, the first two weeks I was in</p> <p>18 cytogenetics and the second two weeks of period</p> <p>19 two I was at the VA, so there was a request for</p> <p>20 a meeting and I suggested perhaps everyone can</p> <p>21 come there because, you know, and have this</p> <p>22 meeting and have Dr. Jordan on the phone, but</p> <p>23 that was -- I never got a response to that.</p> <p>24 DR. WEINFELD: So what you are</p> <p>25 saying, how many residents were at the</p>	<p style="text-align: right;">Page 144</p> <p>1 LEENA VARUGHESE</p> <p>2 was not communication with me.</p> <p>3 Q One more thing, why did you</p> <p>4 state that I was not presenting?</p> <p>5 I mean why did you state that I</p> <p>6 would not come into work?</p> <p>7 A I'm sorry.</p> <p>8 DR. WEINFELD: What date are you</p> <p>9 talking about?</p> <p>10 DR. VARUGHESE: On Wednesday,</p> <p>11 that would be the 13th.</p> <p>12 DR. WEINFELD: September 13th?</p> <p>13 DR. VARUGHESE: Yes.</p> <p>14 A Because your e-mail to me stated</p> <p>15 that you weren't feeling well and couldn't</p> <p>16 present the next day, and I assumed that meant</p> <p>17 that you were calling out sick, which you, in</p> <p>18 fact, did do.</p> <p>19 Q Yes, because -- because of the</p> <p>20 hostility that I am receiving every time there</p> <p>21 is any issue that comes up.</p> <p>22 What happens is Dr. Jordan sends</p> <p>23 me these -- this particular e-mail where she is</p> <p>24 asking telling me that I'm not going to be</p> <p>25 coming into work, she addresses Dr. Carter, she</p>
<p style="text-align: right;">Page 143</p> <p>1 LEENA VARUGHESE</p> <p>2 VA, you?</p> <p>3 DR. VARUGHESE: It was me, yes.</p> <p>4 DR. WEINFELD: How many residents</p> <p>5 were here?</p> <p>6 DR. VARUGHESE: There were --</p> <p>7 DR. WEINFELD: 20?</p> <p>8 DR. VARUGHESE: I'm not sure.</p> <p>9 DR. WEINFELD: So 20 residents</p> <p>10 should go to accommodate one resident.</p> <p>11 That doesn't make sense.</p> <p>12 DR. VARUGHESE: Not 20 residents,</p> <p>13 the Chief Resident, because they</p> <p>14 wanted --</p> <p>15 DR. WEINFELD: Ask your question,</p> <p>16 I'm sorry.</p> <p>17 DR. VARUGHESE: So I never got a</p> <p>18 response to that.</p> <p>19 A I believe that you did,</p> <p>20 actually, but Dr. Morency would have to speak</p> <p>21 to that because she was the one who was</p> <p>22 contacting you.</p> <p>23 But to the best of my knowledge</p> <p>24 from what I remember on my e-mails she did</p> <p>25 respond to you and after that, but again, that</p>	<p style="text-align: right;">Page 145</p> <p>1 LEENA VARUGHESE</p> <p>2 calls out sick for me on my behalf, how rude</p> <p>3 and obnoxious is that?</p> <p>4 DR. WEINFELD: Let's ask a</p> <p>5 question.</p> <p>6 Q Do you think you're warranted to</p> <p>7 call out for me?</p> <p>8 A Like I said --</p> <p>9 Q To make a statement for me on my</p> <p>10 behalf, as the Chief Resident?</p> <p>11 A Like I said, I interpreted your</p> <p>12 e-mail that you were calling out sick.</p> <p>13 I did speak with somebody else</p> <p>14 who was cc'd on that e-mail who also</p> <p>15 interpreted that you were calling out sick, but</p> <p>16 once you said that you didn't, my point one in</p> <p>17 my ten point e-mail back to you was I</p> <p>18 apologized for assuming you were calling out</p> <p>19 sick.</p> <p>20 That's the first thing I put in</p> <p>21 that lengthy e-mail, so if that was my mistake,</p> <p>22 I apologize, I assumed that's what you were</p> <p>23 doing.</p> <p>24 Q I feel like there have been a</p> <p>25 lot of assumptions that you make for other</p>

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<p style="text-align: right;">Page 146</p> <p>1 LEENA VARUGHESE</p> <p>2 people when, in fact, it goes beyond your Chief</p> <p>3 Resident responsibility.</p> <p>4 A If you can provide me with</p> <p>5 evidence of that, I would respond.</p> <p>6 DR. MARIN: Dr. Varughese, can I</p> <p>7 ask you a question, if you did want to</p> <p>8 call out sick, what would you do?</p> <p>9 DR. VARUGHESE: I would send an</p> <p>10 e-mail out to the Chief Residents.</p> <p>11 DR. LEITER: So why didn't you</p> <p>12 present? I'm unclear.</p> <p>13 DR. VARUGHESE: I didn't present</p> <p>14 because I wanted to do a presentation on</p> <p>15 gross pathology and some other -- and</p> <p>16 sections to submit and I think it's</p> <p>17 really relevant and I thought I would do</p> <p>18 that presentation and that would be</p> <p>19 adequate.</p> <p>20 DR. WEINFELD: On your September</p> <p>21 13th e-mail this is?</p> <p>22 DR. VARUGHESE: They wanted me to</p> <p>23 do a different presentation.</p> <p>24 DR. WEINFELD: This says I don't</p> <p>25 feel well, I won't be able to present</p>	<p style="text-align: right;">Page 148</p> <p>1 LEENA VARUGHESE</p> <p>2 and capricious what they say to me on</p> <p>3 any given day.</p> <p>4 I do not know where I stand or what</p> <p>5 I'm supposed to do and to what degree I</p> <p>6 can do my job without having to deal with</p> <p>7 this kind of issue on any given basis or</p> <p>8 any given day.</p> <p>9 DR. WEINFELD: Okay, let's go for</p> <p>10 another question, any other questions</p> <p>11 you have for Dr. Jordan?</p> <p>12 Q Yes, I do.</p> <p>13 So, I would like you to look at</p> <p>14 Exhibit 34, my Exhibit 35.</p> <p>15 DR. WEINFELD: Of your exhibits?</p> <p>16 DR. VARUGHESE: Of my exhibits.</p> <p>17 DR. WEINFELD: What's your</p> <p>18 question? We are there.</p> <p>19 Q So, it says I have missed</p> <p>20 certain presentations here and I would like you</p> <p>21 to refer to Exhibit 44.</p> <p>22 DR. WEINFELD: Wait, we are on</p> <p>23 35?</p> <p>24 DR. VARUGHESE: On Page 2?</p> <p>25 THE WITNESS: Sorry, which</p>
<p style="text-align: right;">Page 147</p> <p>1 LEENA VARUGHESE</p> <p>2 tomorrow.</p> <p>3 What expectation would we have</p> <p>4 other than you wouldn't be at work because</p> <p>5 if you going to work but you wouldn't be</p> <p>6 well enough to present, I don't really</p> <p>7 understand that.</p> <p>8 DR. VARUGHESE: Well, actually I</p> <p>9 wasn't feeling well that day and I</p> <p>10 wanted to make a presentation that was</p> <p>11 about gross pathology and submitting the</p> <p>12 appropriate sections.</p> <p>13 When that wasn't to be, I had to</p> <p>14 make a new presentation which I couldn't</p> <p>15 do and the topics they actually gave me</p> <p>16 which is not -- I don't know if it's</p> <p>17 listed in any of these exhibits, in fact</p> <p>18 they are in excess of what was presented</p> <p>19 and discussed that particular period.</p> <p>20 DR. WEINFELD: What other</p> <p>21 conclusion would a person come to by you</p> <p>22 saying I don't feel well, I won't be</p> <p>23 able to present the lecture I'm supposed</p> <p>24 to present?</p> <p>25 DR. VARUGHESE: A it's arbitrary</p>	<p style="text-align: right;">Page 149</p> <p>1 LEENA VARUGHESE</p> <p>2 exhibit are we on?</p> <p>3 DR. WEINFELD: The big book, 35</p> <p>4 Page 2.</p> <p>5 Q Page 1 is basically me</p> <p>6 responding to an e-mail from Dr. Jordan about</p> <p>7 what the topic is going to be for the</p> <p>8 presentation, because she was interested in</p> <p>9 knowing, so I sent her e-mails just saying that</p> <p>10 it's going to be what it's going to be.</p> <p>11 Then on -- then following that</p> <p>12 she said that's not an appropriate lecture</p> <p>13 topic?</p> <p>14 DR. WEINFELD: Right.</p> <p>15 DR. VARUGHESE: And she lists</p> <p>16 several appropriate lecture topics that</p> <p>17 I can present from.</p> <p>18 These include cytology.</p> <p>19 DR. LEITER: We can read it,</p> <p>20 what's the question?</p> <p>21 Q So basically if you were to</p> <p>22 refer to Exhibit 44 for a period and this is</p> <p>23 all the different conferences that were</p> <p>24 supposedly presented in period 2, you will note</p> <p>25 that there is actually a -- she has placed a</p>

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<p style="text-align: right;">Page 150</p> <p>1 LEENA VARUGHESE 2 lecture? 3 DR. BRONHEIM: What page? 4 DR. VARUGHESE: So there were 5 four cytology lectures that were given 6 that month, so one of the cytology 7 lectures, these are all Wednesday 8 mornings, so one of them included GYN, 9 reactive changes/infections. 10 DR. WEINFELD: So what are you 11 saying, it's not clear? 12 DR. VARUGHESE: Basically what 13 I'm saying is that she has arbitrarily 14 placed a lecture that wasn't presented 15 that month as something that I should 16 present for a follow-up -- for a 17 conference that I need to make up 18 because I didn't attend the required 19 conference. 20 DR. MARIN: So I don't see what 21 was arbitrary. 22 I can understand you may not have 23 wanted to do the topic there and that's up 24 for discussion, but you haven't given us 25 any information that says it's an</p>	<p style="text-align: right;">Page 152</p> <p>1 LEENA VARUGHESE 2 saying I'm sorry that you have to create 3 another presentation, but this is why 4 Dr. Morency and I asked you several 5 weeks ago for your topic. 6 Why didn't you provide your topic 7 at least a week in advance? 8 That's in your 35, Page 2. 9 DR. VARUGHESE: Yes, I understand 10 what you are saying, so here is the -- 11 so for period 2 there were two Chief 12 Residents we have on, so one Chief 13 resident wasn't there for two weeks the 14 first two weeks. 15 That's when I was on cytogenetics, 16 then for the following two weeks that 17 other Chief Resident was on-site and this 18 Chief Resident was away for the entire 19 month. 20 I did attend a lot of these 21 conferences. 22 DR. WEINFELD: You attended 23 conferences that you were marked absent 24 for, is that what you are saying? 25 DR. VARUGHESE: I have a</p>
<p style="text-align: right;">Page 151</p> <p>1 LEENA VARUGHESE 2 arbitrary decision to ask you to present 3 on one topic versus the other, that seems 4 to be within the domain of a Chief 5 Resident. 6 DR. VARUGHESE: So the normal -- 7 she basically said normal -- okay, so I 8 understand, but this is according to the 9 departmental policy, it is stated that 10 when we do have to make up a conference 11 for missing these conferences that are 12 mandatory, you basically had to present 13 from one of those that you missed, not 14 necessarily something they decide on, 15 that's departmental policy, so I think 16 there is a lot of confusion regarding 17 this new policies that have been 18 instituted. 19 DR. LEITER: Why didn't you just 20 choose a topic and e-mail? 21 DR. VARUGHESE: I did choose a 22 topic and present, but they said it 23 wasn't appropriate. 24 DR. BRONHEIM: They are also</p>	<p style="text-align: right;">Page 153</p> <p>1 LEENA VARUGHESE 2 suspicion that may be true, because I 3 actually was -- I did go to these 4 conferences and I also had a discussion 5 with Dr. Firpa regarding me attending 6 conferences that are educational to me 7 when I was at a different institution, 8 and he said it was okay, I had to make a 9 note of that, I am actually going to 10 these conferences and that would be 11 adequate or appropriate. 12 DR. WEINFELD: Okay, so let's ask 13 a question then. 14 DR. MARIN: Are there any other 15 questions for this witness? 16 THE WITNESS: I'm sorry I am 17 bouncing around. 18 DR. MARIN: This is for you, is 19 there anything else you would like to 20 ask her? 21 DR. VARUGHESE: I want to make 22 myself clear. 23 DR. MARIN: It's questions for 24 the witness. 25 DR. VARUGHESE: No.</p>

<p style="text-align: right;">Page 154</p> <p>1 LEENA VARUGHESE</p> <p>2 I just want to make the last</p> <p>3 statement clear, I did attend a lot of the</p> <p>4 conferences I'm not sure if the attendance</p> <p>5 list was done appropriately.</p> <p>6 DR. LEITER: Isn't there</p> <p>7 documentation?</p> <p>8 THE WITNESS: Yes, there is, the</p> <p>9 attendance sheet was every day that</p> <p>10 there was no chief on-site and we know</p> <p>11 this because everybody else signed in.</p> <p>12 It's common knowledge in our</p> <p>13 Department and our residency program that</p> <p>14 there is a sign in sheet out there every</p> <p>15 morning you have to sign in to get credit</p> <p>16 for the conference.</p> <p>17 DR. WEINFELD: Is there a reason</p> <p>18 why you wouldn't sign a sheet?</p> <p>19 DR. VARUGHESE: If I didn't see</p> <p>20 the sign in sheet immediately.</p> <p>21 DR. LEITER: You knew there were</p> <p>22 penalties if you didn't sign in.</p> <p>23 DR. VARUGHESE: The policy only</p> <p>24 went into effect as the 15th.</p> <p>25 DR. WEINFELD: Everyone signed</p>	<p style="text-align: right;">Page 156</p> <p>1 LEENA VARUGHESE</p> <p>2 employer?</p> <p>3 A Mount Sinai Medical Center.</p> <p>4 Q What is your title?</p> <p>5 A Fourth year resident, Chief</p> <p>6 Resident.</p> <p>7 Q What are your job duties?</p> <p>8 A As a resident or as a Chief</p> <p>9 Resident.</p> <p>10 Q As a Chief Resident.</p> <p>11 A As a Chief Resident to organize</p> <p>12 the schedules, to help orient new and incoming</p> <p>13 residents, to serve as a liaison between</p> <p>14 administration faculty and staff and residents,</p> <p>15 that's basically it.</p> <p>16 Q Was there ever a time when Dr.</p> <p>17 Varughese failed to meet the 80 percent</p> <p>18 requirements of attendance to core conferences?</p> <p>19 A Yes.</p> <p>20 Q Do you recall what that was?</p> <p>21 A Period 2.</p> <p>22 Q Do you remember what happened?</p> <p>23 A Yes, I sent an e-mail out Monday</p> <p>24 August 29 informing her of that fact we</p> <p>25 scheduled her for a date to give a make up</p>
<p style="text-align: right;">Page 155</p> <p>1 LEENA VARUGHESE</p> <p>2 the sign in sheet but you didn't?</p> <p>3 DR. VARUGHESE: Two weeks, August</p> <p>4 29th, on the first day of period 3 they</p> <p>5 want to tell me that I have to present.</p> <p>6 DR. WEINFELD: Any other</p> <p>7 questions for this witness?</p> <p>8 DR. VARUGHESE: It seems --</p> <p>9 DR. WEINFELD: The witness is</p> <p>10 excused, thank you.</p> <p>11 MR. MacDONALD: Can we go off the</p> <p>12 record.</p> <p>13 (Discussion off the record.)</p> <p>14</p> <p>15 ELIZABETH MORENCY, called</p> <p>16 as a witness, having been first duly sworn</p> <p>17 by the Notary Public, was examined and</p> <p>18 testified as follows:</p> <p>19</p> <p>20 DR. WEINFELD: Can we go back on</p> <p>21 the record.</p> <p>22</p> <p>23 DIRECT EXAMINATION BY DR. FIRPA:</p> <p>24</p> <p>25 Q Dr. Morency, who is your</p>	<p style="text-align: right;">Page 157</p> <p>1 LEENA VARUGHESE</p> <p>2 presentation per our conference attendance</p> <p>3 policy, and she initially failed to respond,</p> <p>4 she subsequently did acknowledge the fact that</p> <p>5 she was scheduled to present on that date, and</p> <p>6 then called out sick, so then we reschedule her</p> <p>7 for the next day.</p> <p>8 So the initial date was the 14th</p> <p>9 she called out sick, so we scheduled her for</p> <p>10 the 15th, she called out sick again.</p> <p>11 So then, she did show up that</p> <p>12 Thursday, whatever that Thursday was, came in</p> <p>13 but then left without making a presentation so</p> <p>14 she never ended up making a question.</p> <p>15 DR. MARIN: Is this common to</p> <p>16 call out sick that frequently in</p> <p>17 pathology residency, is this different,</p> <p>18 is that an acceptable event?</p> <p>19 THE WITNESS: Given the</p> <p>20 circumstances she was supposed to make a</p> <p>21 presentation, I just think its kind of</p> <p>22 strange.</p> <p>23 DR. MARIN: People call out sick</p> <p>24 frequently as residents?</p> <p>25 THE WITNESS: Sure, not -- it</p>

<p style="text-align: right;">Page 158</p> <p>1 LEENA VARUGHESE</p> <p>2 depends, if you are sick you call out,</p> <p>3 it's variable.</p> <p>4 DR. MARIN: Thank you.</p> <p>5 Q Did she ever provide, did you</p> <p>6 ever ask her for proof of illness since her</p> <p>7 absences precluded her from fulfilling a task?</p> <p>8 A No, because the policy is you</p> <p>9 have to miss three consecutive days and she</p> <p>10 only missed two, so I didn't ask her.</p> <p>11 Q Would you look at Exhibit 10 in</p> <p>12 that book, Department's Exhibit 10, and briefly</p> <p>13 describe what they represent?</p> <p>14 A So this is just a series of</p> <p>15 e-mails back and forth initially starting</p> <p>16 explaining when she needs to come in and give</p> <p>17 her make up presentation, then she responded</p> <p>18 that she was going to be out sick, so then we</p> <p>19 wanted to reschedule her, but then she started</p> <p>20 to question as to why she had to give the</p> <p>21 presentation?</p> <p>22 Were there other residents</p> <p>23 required to give presentations?</p> <p>24 Why on that particular Wednesday</p> <p>25 she was scheduled, because we normally have our</p> <p style="text-align: right;">Page 159</p> <p>1 LEENA VARUGHESE</p> <p>2 weekly cytology lectures, so it was just kind</p> <p>3 of a back and forth, back and forth trying to</p> <p>4 establish a date when she was going to come.</p> <p>5 DR. WEINFELD: Can I interrupt a</p> <p>6 second, is there some new information we</p> <p>7 are going to get from this witness?</p> <p>8 DR. FIRPA: This is it, this is</p> <p>9 the end for our questioning.</p> <p>10 DR. WEINFELD: Great.</p> <p>11 DR. VARUGHESE: I have a few</p> <p>12 questions.</p> <p>13</p> <p>14 CROSS-EXAMINATION BY DR. VARUGHESE:</p> <p>15</p> <p>16 Q There was a fellow scheduled to</p> <p>17 present on Thursday?</p> <p>18 A Yeah, for a 30 minute period so</p> <p>19 there are two 30 minute spots on Thursday</p> <p>20 available.</p> <p>21 Q Who were the two fellows</p> <p>22 supposed to present on Thursday?</p> <p>23 A It was just one, Dr. Klapper.</p> <p>24 Q Well, as of that week when we</p> <p>25 were sent out the weekly conference list, the</p>	<p style="text-align: right;">Page 160</p> <p>1 LEENA VARUGHESE</p> <p>2 fellow was on the list, right, as scheduled to</p> <p>3 present on Thursday?</p> <p>4 DR. WEINFELD: Were you supposed</p> <p>5 to present that day, Dr. Varughese?</p> <p>6 DR. VARUGHESE: No, not on</p> <p>7 Thursday. I was supposed to present on</p> <p>8 Wednesday.</p> <p>9 DR. WEINFELD: The day you walked</p> <p>10 out and left, can you explain that?</p> <p>11 DR. VARUGHESE: Do you -- I was</p> <p>12 asking a question, can we --</p> <p>13 DR. WEINFELD: I know, but I am</p> <p>14 trying to get to the root of the</p> <p>15 question here.</p> <p>16 You can ask your question in a</p> <p>17 second, but do you have an explanation for</p> <p>18 leaving a conference that you were</p> <p>19 supposed to present at without</p> <p>20 explanation?</p> <p>21 DR. VARUGHESE: Well, I never</p> <p>22 agreed to present on Thursday, September</p> <p>23 14th.</p> <p>24 DR. WEINFELD: So you are saying</p> <p>25 you weren't supposed to present that</p> <p style="text-align: right;">Page 161</p> <p>1 LEENA VARUGHESE</p> <p>2 day?</p> <p>3 DR. VARUGHESE: I never agreed to</p> <p>4 it.</p> <p>5 DR. WEINFELD: I don't know what</p> <p>6 that means.</p> <p>7 DR. LEITER: Were you prepared to</p> <p>8 present?</p> <p>9 DR. VARUGHESE: No, I was sent an</p> <p>10 e-mail very late on September 13th, was</p> <p>11 it, saying I have to present because</p> <p>12 somebody canceled.</p> <p>13 THE WITNESS: No, that's not how</p> <p>14 it worked.</p> <p>15 DR. MARIN: Were you prepared to</p> <p>16 present on the 13th, the day you were</p> <p>17 originally scheduled?</p> <p>18 DR. VARUGHESE: I was able to</p> <p>19 present what I was prepared to present</p> <p>20 on the 13th, but not the lecture topics</p> <p>21 that was mentioned in Dr. Jordan's</p> <p>22 e-mail that we had heard before.</p> <p>23 They didn't want me to present that</p> <p>24 and I wasn't about to make up a new</p> <p>25 presentation as I was taking a sick day</p>
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41 (Pages 158 to 161)

<p style="text-align: right;">Page 162</p> <p>1 LEENA VARUGHESE</p> <p>2 and I wasn't going to work.</p> <p>3 If I were at work I would have</p> <p>4 worked on both Tuesday and Wednesday.</p> <p>5 DR. WEINFELD: Ask your question,</p> <p>6 I'm sorry.</p> <p>7 Q So Thursday there were two</p> <p>8 fellows who were --</p> <p>9 A One fellow.</p> <p>10 Q One fellow, but as of the week,</p> <p>11 beginning of the week the two fellows were both</p> <p>12 on the list as being able to present that week?</p> <p>13 A One fellow, Dr. Klapper only.</p> <p>14 Q Well, there was a different</p> <p>15 fellow when you sent out the conference list.</p> <p>16 DR. MARIN: She already told you</p> <p>17 there was one fellow scheduled.</p> <p>18 She answered your question, you</p> <p>19 can't keep asking her the same question.</p> <p>20 DR. VARUGHESE: Here is the</p> <p>21 thing, I want you to look at Exhibit --</p> <p>22 so I want you to look at Exhibit --</p> <p>23 that's Exhibit 45 in my exhibits.</p> <p>24 DR. WEINFELD: This is Dr.</p> <p>25 Varughe's Exhibit 45.</p>	<p style="text-align: right;">Page 164</p> <p>1 LEENA VARUGHESE</p> <p>2 like to add it at a later date.</p> <p>3 DR. WEINFELD: So 47 exhibits, we</p> <p>4 don't have that.</p> <p>5 DR. VARUGHESE: Here is a list</p> <p>6 that says who is supposed to present as</p> <p>7 of Wednesday, one person is not</p> <p>8 presenting and up until then there were</p> <p>9 two people presenting that date the</p> <p>10 person canceled last minute and I</p> <p>11 believe that was Dr. Guarino who</p> <p>12 canceled the presentation that he was</p> <p>13 supposed to make at the last minute.</p> <p>14 And I was told I can present</p> <p>15 because he canceled and this is on</p> <p>16 Wednesday.</p> <p>17 And that's my sick day.</p> <p>18 Q So, anyway my other question for</p> <p>19 you is that you were on vacation for the first</p> <p>20 two weeks, right?</p> <p>21 A Of when?</p> <p>22 Q Of period 2.</p> <p>23 A Yes.</p> <p>24 Q So, basically you were on</p> <p>25 vacation and Dr. Jordan was not here for period</p>
<p style="text-align: right;">Page 163</p> <p>1 LEENA VARUGHESE</p> <p>2 Q So here is a list of presenters</p> <p>3 for the year that's listed here from the</p> <p>4 Department of Pathology.</p> <p>5 So if you look at the date that</p> <p>6 I was supposed to present which was 9 -- well</p> <p>7 newly assigned to present I believe it is</p> <p>8 9/15/11, this is Akozi and Klapper.</p> <p>9 A Yes.</p> <p>10 Q So when did they cancel, when</p> <p>11 did doctor?</p> <p>12 A Dr. Akozi I honestly don't know</p> <p>13 but we knew as of Wednesday when we sent you</p> <p>14 the e-mail you were to present Thursday it was</p> <p>15 only going to be one fellow presenting that</p> <p>16 day.</p> <p>17 Q Okay, well actually I had also</p> <p>18 gotten an e-mail that earlier that week saying</p> <p>19 the people presenting on Thursday was</p> <p>20 Dr. Guarino, I believe and Dr. Klapper was it?</p> <p>21 A I don't remember the exact.</p> <p>22 DR. WEINFELD: Do you have a copy</p> <p>23 of that e-mail?</p> <p>24 DR. VARUGHESE: I do not have it</p> <p>25 in that particular exhibit list, I would</p>	<p style="text-align: right;">Page 165</p> <p>1 LEENA VARUGHESE</p> <p>2 2?</p> <p>3 A Yes.</p> <p>4 Q And her e-mail, I'm sorry, her</p> <p>5 pager was not working?</p> <p>6 A She had a national pager.</p> <p>7 Q Right, eventually.</p> <p>8 So, basically we had no Chief</p> <p>9 Residents on-site for --</p> <p>10 A Two weeks, she wasn't on-site</p> <p>11 but she was the covering resident we had</p> <p>12 Jonathan Chow in charge of conference</p> <p>13 attendance making sure that he kept track of</p> <p>14 the sheet so everything was covered.</p> <p>15 Q Okay, great.</p> <p>16 So, what are the other Chief</p> <p>17 Resident responsibilities that you spoke of</p> <p>18 earlier?</p> <p>19 DR. WEINFELD: Why don't we</p> <p>20 specifically ask what you're going to</p> <p>21 ask, we covered this.</p> <p>22 Q Basically does Chief Resident</p> <p>23 have supervisory roles?</p> <p>24 A In a broad overarching sense,</p> <p>25 yes.</p>

42 (Pages 162 to 165)

<p style="text-align: right;">Page 166</p> <p>1 LEENA VARUGHESE</p> <p>2 Q But not in the sense that if a</p> <p>3 resident is sick or not able to perform their</p> <p>4 duty they are going to cover or help them, or</p> <p>5 any given day?</p> <p>6 A They either help to organize</p> <p>7 coverage or they cover if they can't find</p> <p>8 people and I have covered people who called out</p> <p>9 sick, if necessary.</p> <p>10 Q Let's say for the first two</p> <p>11 weeks there are residents, it's the first year</p> <p>12 residents are on service, who is helping them</p> <p>13 manage?</p> <p>14 A The other senior residents.</p> <p>15 Q Not a Chief Resident?</p> <p>16 A No, because no one is there.</p> <p>17 DR. LEITER: What's the point of</p> <p>18 the question?</p> <p>19 DR. VARUGHESE: I am just saying</p> <p>20 they say that they are delegating</p> <p>21 responsibilities and acting in</p> <p>22 supervisory positions over the</p> <p>23 residents, but then here we are, there</p> <p>24 is nobody present.</p> <p>25 DR. ROCCO: What does that have</p>	<p style="text-align: right;">Page 168</p> <p>1 LEENA VARUGHESE</p> <p>2 So you don't know when he</p> <p>3 decided that he couldn't present on the 15th?</p> <p>4 A I don't.</p> <p>5 Q Do you know if he was at the</p> <p>6 conference that day?</p> <p>7 A No, I was at the Dean's office.</p> <p>8 I wasn't there.</p> <p>9 DR. VARUGHESE: Thank you.</p> <p>10 DR. WEINFELD: Any further</p> <p>11 questions?</p> <p>12 Thank you.</p> <p>13</p> <p>14 P A T L E N T O, called as a witness,</p> <p>15 having been first duly sworn by the Notary</p> <p>16 Public, was examined and testified as</p> <p>17 follows:</p> <p>18</p> <p>19 DIRECT EXAMINATION BY DR. FIRPA:</p> <p>20</p> <p>21 Q Dr. Lento, would you state your</p> <p>22 employer?</p> <p>23 A Mount Sinai Medical Center.</p> <p>24 Q And your title?</p> <p>25 A Excuse me?</p>
<p style="text-align: right;">Page 167</p> <p>1 LEENA VARUGHESE</p> <p>2 to do with you?</p> <p>3 DR. VARUGHESE: It just has to do</p> <p>4 with the fact that we don't have a</p> <p>5 resident who should be supervising or</p> <p>6 on-site, acknowledgment of the policies</p> <p>7 were not due until the 15th and here we</p> <p>8 have somebody who is e-mailing saying</p> <p>9 that these are the new policies, I</p> <p>10 cannot even speak to her, she's not</p> <p>11 there, her pager is not working.</p> <p>12 I don't know, it just seems just</p> <p>13 to --</p> <p>14 DR. BRONHEIM: Can we safe this</p> <p>15 for your own presentation, because it's</p> <p>16 not really a question.,</p> <p>17 DR. WEINFELD: You will have a</p> <p>18 chance to make whatever comments you</p> <p>19 want to make about anything so we can</p> <p>20 get through the witnesses and then go</p> <p>21 forward.</p> <p>22 Q So one final question, I mean</p> <p>23 this is just going to go back to the fellow who</p> <p>24 was to present on the 15th who didn't present</p> <p>25 on the 15th.</p>	<p style="text-align: right;">Page 169</p> <p>1 LEENA VARUGHESE</p> <p>2 Q Your job title?</p> <p>3 A I am currently residency program</p> <p>4 director, autopsy director and cardiovascular</p> <p>5 pathologist.</p> <p>6 Q What are your job duties as</p> <p>7 program director of pathology residency?</p> <p>8 A Oversee the program with regard</p> <p>9 to the education of residents in all four years</p> <p>10 of the pathology program.</p> <p>11 Q For how long and have you known</p> <p>12 Dr. Varughese?</p> <p>13 A Since she was a PGY 1 resident.</p> <p>14 Q Could you describe to us your</p> <p>15 relationship with her?</p> <p>16 A Well, she's a resident in the</p> <p>17 program, so I have had the opportunity to deal</p> <p>18 with her directly with regard to patient</p> <p>19 specimens, autopsies, surgical specimens, and</p> <p>20 in addition as program director with regard to</p> <p>21 more recently disciplinary actions, et cetera.</p> <p>22 Q What is the nature of her</p> <p>23 response to you, to your pages, to calls and to</p> <p>24 efforts to contact and requesting actions</p> <p>25 related to her performance?</p>

43 (Pages 166 to 169)

<p style="text-align: right;">Page 170</p> <p>1 LEENA VARUGHESE</p> <p>2 A Well, one of the difficulties</p> <p>3 that I have had with Leena is she virtually</p> <p>4 never responded to my pages and infrequently</p> <p>5 responded to my e-mails.</p> <p>6 DR. BRONHEIM: Over what period</p> <p>7 of time?</p> <p>8 THE WITNESS: In general, I would</p> <p>9 say that one of the problems that I have</p> <p>10 had with, personally with Leena is that</p> <p>11 she hasn't responded to pages over a</p> <p>12 number of years.</p> <p>13 DR. MARIN: This is not a new</p> <p>14 problem it's something that's been</p> <p>15 present for --</p> <p>16 THE WITNESS: No, it's not a new</p> <p>17 problem at all.</p> <p>18 Q Have in any way, shape or form</p> <p>19 this affected her capacity to perform in</p> <p>20 regards to the other residents and her duties</p> <p>21 as part of the rotations to which she is</p> <p>22 assigned?</p> <p>23 A In terms of anything</p> <p>24 specifically?</p> <p>25 Q Yes.</p>	<p style="text-align: right;">Page 172</p> <p>1 LEENA VARUGHESE</p> <p>2 Department had developed.</p> <p>3 She was first in line from that</p> <p>4 standpoint and the Chief Residents were unable</p> <p>5 to reach her.</p> <p>6 They let me know they were not</p> <p>7 able to reach her, so I did try to reach out to</p> <p>8 her myself.</p> <p>9 I believe initially I tried to</p> <p>10 send her an e-mail, but she did not respond, I</p> <p>11 did try to Page her, but I did not receive a</p> <p>12 response.</p> <p>13 Subsequently I contacted her</p> <p>14 directly at the rotation that she was on which</p> <p>15 was the cytogenetics rotation, and I don't</p> <p>16 believe she responded to my initial page, so I</p> <p>17 spoke directly to the site director Dr. Najfeld</p> <p>18 and let her know I needed to speak directly to</p> <p>19 Leena.</p> <p>20 And at that point I was able to</p> <p>21 speak to Leena, she put her on the phone, I</p> <p>22 explained to Leena the situation about the need</p> <p>23 for her to cover.</p> <p>24 She was resistant at first, I</p> <p>25 explained to her that this was her job, her</p>
<p style="text-align: right;">Page 171</p> <p>1 LEENA VARUGHESE</p> <p>2 A With regard to her pages.</p> <p>3 Q Your inability to establish</p> <p>4 contact with her, has it affected in any way</p> <p>5 the quality of the service and the performance</p> <p>6 of the other resident's service?</p> <p>7 A I understand.</p> <p>8 Well, in particular with regard</p> <p>9 to an incident with regard to coverage when we</p> <p>10 had the resident who was out, I tried to reach</p> <p>11 Leena by paging her and was unsuccessful, but</p> <p>12 this occurred after others had truly tried to</p> <p>13 reach her for this same coverage issue.</p> <p>14 Q Could you refer to the issue of</p> <p>15 coverage requested of her on August 12th?</p> <p>16 A Is that the incident on a</p> <p>17 Friday?</p> <p>18 Q The one regarding coverage for</p> <p>19 the surgical pathology service due to the</p> <p>20 illness of one of the residents.</p> <p>21 A If I remember correctly this was</p> <p>22 while Leena was on cytogenetics?</p> <p>23 Q Correct.</p> <p>24 A Leena was expected to cover the</p> <p>25 surgical pathology based on the policy that the</p>	<p style="text-align: right;">Page 173</p> <p>1 LEENA VARUGHESE</p> <p>2 duty, she was required to do it based on our</p> <p>3 policy.</p> <p>4 It was a fair policy and that</p> <p>5 she then would need to cover the service that</p> <p>6 day.</p> <p>7 I think this was in the morning</p> <p>8 probably around 10:00 or so, she did tell me at</p> <p>9 that time that she would cover.</p> <p>10 I indicated to her that she</p> <p>11 needed to let the Chief Residents know that she</p> <p>12 was going to be covering, that they were</p> <p>13 overseeing the process and that I was only</p> <p>14 serving, essentially, as an intermediary to get</p> <p>15 this actually covered.</p> <p>16 And I left it at that.</p> <p>17 She did cover, she did go to</p> <p>18 cover, I think it was frozen sections actually</p> <p>19 that afternoon, but she did not contact the</p> <p>20 Chief Residents and let them know that she</p> <p>21 would be doing it.</p> <p>22 Q Okay.</p> <p>23 What was your involvement in her</p> <p>24 persistent request to change her electives in</p> <p>25 gastrointestinal pathology and switch to dermal</p>

<p style="text-align: right;">Page 174</p> <p>1 LEENA VARUGHESE</p> <p>2 pathology?</p> <p>3 A So that was in regard to this</p> <p>4 year's schedule.</p> <p>5 Q Yes, sir.</p> <p>6 A Leena had been assigned to GI in</p> <p>7 I believe it's October, and she had requested a</p> <p>8 change, this was a rotation actually that she</p> <p>9 had originally requested, so we offered to the</p> <p>10 residents certain opportunities, I will call</p> <p>11 them electives, this was one that Leena had</p> <p>12 opted to choose on her own.</p> <p>13 These selections are made to the</p> <p>14 Chief Residents in advance of the schedule</p> <p>15 being made, the schedule is then made and</p> <p>16 residents have an opportunity in advance of the</p> <p>17 schedule to come out to potentially make</p> <p>18 alteration or question certain things, et</p> <p>19 cetera.</p> <p>20 That wasn't done initially, it</p> <p>21 was only subsequent to the schedule coming out,</p> <p>22 at which point the residents, including Leena,</p> <p>23 were aware that we were not going to make</p> <p>24 schedule changes unless there was a very</p> <p>25 significant reason to do so.</p>	<p style="text-align: right;">Page 176</p> <p>1 LEENA VARUGHESE</p> <p>2 Q Did Dr. Varughese provide a</p> <p>3 reason for her insistence to be allowed to</p> <p>4 proceed with this change?</p> <p>5 A I believe she was interested in</p> <p>6 switching with dermatopath, I don't recall a</p> <p>7 specific reason why she wanted to switch to</p> <p>8 dermatopath.</p> <p>9 Q Was her request granted,</p> <p>10 discussed, approved?</p> <p>11 A It was denied.</p> <p>12 Q Why was it denied?</p> <p>13 A Because I didn't think that she</p> <p>14 had an appropriate rationale for why she wanted</p> <p>15 to change the rotation.</p> <p>16 Q Did you at any time communicate</p> <p>17 with Dr. Norman Harpaz regarding her direct</p> <p>18 request to change her elective after being told</p> <p>19 it had been denied?</p> <p>20 A I don't remember speaking with</p> <p>21 Norm directly after that.</p> <p>22 Q Had you had any communications</p> <p>23 with him over this issue, e-mails or whatever?</p> <p>24 A I don't recall.</p> <p>25 Q Who is Dr. Harpaz?</p>
<p style="text-align: right;">Page 175</p> <p>1 LEENA VARUGHESE</p> <p>2 Q Would you explain the</p> <p>3 circumstances under which a resident is allowed</p> <p>4 to change an elective?</p> <p>5 A Well, I guess if there is a</p> <p>6 death in the family or an illness, if there is</p> <p>7 extenuating circumstances that might require a</p> <p>8 resident to have a schedule change.</p> <p>9 Q How frequently are requests to</p> <p>10 change electives made by a resident honored?</p> <p>11 A I don't have a statistic on how</p> <p>12 frequently they are.</p> <p>13 Q In your opinion.</p> <p>14 A Infrequently.</p> <p>15 Q Why are they he so infrequent?</p> <p>16 A Well, because any one particular</p> <p>17 person's schedule can affect other people's</p> <p>18 schedules.</p> <p>19 So, it has, in a sense, a ripple</p> <p>20 effect on things that can happen throughout the</p> <p>21 scheduling.</p> <p>22 You can't simply take one</p> <p>23 resident off a particular rotation without</p> <p>24 having someone fill in that particular</p> <p>25 rotation.</p>	<p style="text-align: right;">Page 177</p> <p>1 LEENA VARUGHESE</p> <p>2 A He's the director of</p> <p>3 gastrointestinal pathology.</p> <p>4 Q Would you refer to Exhibit 13 in</p> <p>5 the small book, Department's Exhibit 13.</p> <p>6 Would you briefly summarize what</p> <p>7 they represent?</p> <p>8 A I'm looking at an e-mail that I</p> <p>9 sent to Norm about the switch.</p> <p>10 And at this bottom e-mail I</p> <p>11 indicated that Leena had made a request, she</p> <p>12 had not done GI in the past, but had already</p> <p>13 done dermatopath and in addition the Chief</p> <p>14 Residents had spoken with Dr. Phelps who was</p> <p>15 the director of dermatopathology.</p> <p>16 He was gracious enough to</p> <p>17 indicate that Leena was welcome to join him in</p> <p>18 the sign-out early before the GI rotation, so</p> <p>19 if she was interested in gaining additional</p> <p>20 dermatopathology exposure she could do so</p> <p>21 before the start of the GI rotation.</p> <p>22 Q Would you refer to the first</p> <p>23 e-mail on that page, please?</p> <p>24 A The top e-mail?</p> <p>25 Q Yes -- the bottom.</p>

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<p style="text-align: right;">Page 178</p> <p>1 LEENA VARUGHESE</p> <p>2 A The one that starts Dear Chiefs?</p> <p>3 Q Yes.</p> <p>4 A So this is an e-mail from Norman</p> <p>5 Harpaz.</p> <p>6 DR. WEINFELD: What's the</p> <p>7 question?</p> <p>8 Q Does that refresh your memory</p> <p>9 about this incident when she approached him</p> <p>10 directly and led him to request to notify</p> <p>11 everybody else about the procedure and</p> <p>12 instructed her to proceed as she had been</p> <p>13 repeatedly indicated to do?</p> <p>14 A Right. Well, apparently that's</p> <p>15 obviously the e-mails, I don't recall directly</p> <p>16 without the information in front of me.</p> <p>17 Q Are you aware of the issues</p> <p>18 related to her failure to meet the required 80</p> <p>19 percent attendance to the core conferences?</p> <p>20 A Yes, Leena and occasional other</p> <p>21 residents have failed to meet the 80 percent</p> <p>22 attendance requirement.</p> <p>23 As a result, Leena was asked to</p> <p>24 provide an educational lecture that would cover</p> <p>25 some of the material that was missed during her</p>	<p style="text-align: right;">Page 180</p> <p>1 LEENA VARUGHESE</p> <p>2 Thursday morning conference.</p> <p>3 Our Thursday morning conferences</p> <p>4 essentially are grand rounds, residents present</p> <p>5 every week or every other week various cases,</p> <p>6 et cetera, so it was the perfect venue for</p> <p>7 Leena to do something like provide this</p> <p>8 educational conference.</p> <p>9 On the particular day Leena was</p> <p>10 well aware that she was expected to give a</p> <p>11 conference on that day, I was present and Leena</p> <p>12 came in about 15 or 20 minutes late while the</p> <p>13 first person was giving their presentation.</p> <p>14 She sat down right in front of</p> <p>15 me, she didn't acknowledge anybody, she didn't</p> <p>16 say hello.</p> <p>17 She sat there for about 10</p> <p>18 minutes and as the presenter was finishing up,</p> <p>19 Leena just got up and left.</p> <p>20 I was personally surprised</p> <p>21 because I was under the expectation that she</p> <p>22 was going to be giving a lecture but she</p> <p>23 didn't.</p> <p>24 I didn't know why she decided to</p> <p>25 just leave.</p>
<p style="text-align: right;">Page 179</p> <p>1 LEENA VARUGHESE</p> <p>2 absences.</p> <p>3 Based on the policy that we had</p> <p>4 designed we had tried to set something up so</p> <p>5 that even if the resident had been absent they</p> <p>6 would still be able to make up the material</p> <p>7 from an educational standpoint.</p> <p>8 Q Were you aware of the events</p> <p>9 that took place on September 15 during the</p> <p>10 weekly residents pathology conference that she</p> <p>11 was supposed to present after being absent for</p> <p>12 two days because of illness?</p> <p>13 A Is September 15th a Thursday?</p> <p>14 Q Yes.</p> <p>15 A So, Leena had been asked to</p> <p>16 provide an educational lecture, again, to make</p> <p>17 up for some of the material she had missed</p> <p>18 during her absences.</p> <p>19 I believe that the Thursday in</p> <p>20 question that you raise was an alternate day.</p> <p>21 Originally Leena was asked to</p> <p>22 provide the lecture on another day, and I</p> <p>23 believe that she did not present on the initial</p> <p>24 date.</p> <p>25 The subsequent date was the</p>	<p style="text-align: right;">Page 181</p> <p>1 LEENA VARUGHESE</p> <p>2 Q Did you receive an e-mail from</p> <p>3 Dr. Ara Blejwas regarding her conduct at that</p> <p>4 conference?</p> <p>5 A I may have.</p> <p>6 I know we certainly talked about</p> <p>7 it.</p> <p>8 Q Would you refer to Exhibit 12,</p> <p>9 Department's Exhibit 12.</p> <p>10 A So he basically summarized the</p> <p>11 situation, I think as I have already explained.</p> <p>12 Q So would you say it was fair</p> <p>13 that she must have been aware that she was</p> <p>14 expected to present on that morning since so</p> <p>15 many of you expected her presentation to take</p> <p>16 place?</p> <p>17 A Oh, I think there was no</p> <p>18 question that she was aware.</p> <p>19 Q Did you have any e-mail</p> <p>20 communications with me regarding her conduct at</p> <p>21 this conference?</p> <p>22 A I don't recall, I may have.</p> <p>23 Q Would you refer to Department</p> <p>24 Exhibit 11.</p> <p>25 A So, again, my e-mail basically</p>

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<p style="text-align: right;">Page 182</p> <p>1 LEENA VARUGHESE</p> <p>2 summarized what I've already described.</p> <p>3 Q Did you meet with Dr. Varughese</p> <p>4 regarding the other residents' concern about</p> <p>5 her conduct and behavior at any time?</p> <p>6 A During the academic year?</p> <p>7 Q In this last weeks leading to</p> <p>8 September 15th.</p> <p>9 A No, I did not.</p> <p>10 DR. FIRPA: No further questions.</p> <p>11 DR. WEINFELD: Dr. Varughese.</p> <p>12</p> <p>13 CROSS-EXAMINATION BY DR. VARUGHESE:</p> <p>14</p> <p>15 Q So, was there a fellow who was</p> <p>16 supposed to present on Thursday morning?</p> <p>17 Who were the fellows, who were</p> <p>18 the two people that were supposed to present</p> <p>19 that morning?</p> <p>20 A Oh, I don't recall, it's not</p> <p>21 always two people, necessarily, sometimes it's</p> <p>22 just one person, and I believe I could be</p> <p>23 mistaken that there was an open slot, in other</p> <p>24 words there was one person scheduled for that</p> <p>25 day, and you were provided the second slot in</p>	<p style="text-align: right;">Page 184</p> <p>1 LEENA VARUGHESE</p> <p>2 always followed up with you regarding any</p> <p>3 autopsy case, any given issues that come up,</p> <p>4 have I not?</p> <p>5 A Well, if you are talking about</p> <p>6 call in particular, in general the contact</p> <p>7 would have been initiated by you contacting me</p> <p>8 about a case on the weekend, which is a little</p> <p>9 bit different than me trying to reach out to</p> <p>10 you.</p> <p>11 Q Well, there are actually</p> <p>12 instances where you have actually reached out</p> <p>13 to me before.</p> <p>14 DR. WEINFELD: Is there a</p> <p>15 question you want to ask him?</p> <p>16 Q I am saying there at least has</p> <p>17 been one or several instances where you reached</p> <p>18 out to me on a case that may or may not come in</p> <p>19 because you are the director of autopsies here.</p> <p>20 A Um-hum.</p> <p>21 Q And I have responded to you</p> <p>22 immediately, have I not?</p> <p>23 A I didn't say that you never</p> <p>24 responded to my pages, but you have a habit of</p> <p>25 not responding.</p>
<p style="text-align: right;">Page 183</p> <p>1 LEENA VARUGHESE</p> <p>2 order to provide your educational lecture.</p> <p>3 Q So, you have said that I have</p> <p>4 not responded to your pages. Can you give me</p> <p>5 an example, I mean you say that I didn't</p> <p>6 respond to your pages when you wanted me to</p> <p>7 cover on August 12th.</p> <p>8 A Right, yes; that's true, Leena.</p> <p>9 Q But is it possible that I didn't</p> <p>10 get the page that day.</p> <p>11 I mean I don't think I got that</p> <p>12 page.</p> <p>13 A I find it hard to believe that</p> <p>14 you wouldn't have received my pages. You</p> <p>15 haven't responded to other pages that I have</p> <p>16 sent out to you in the past.</p> <p>17 And you've taken the opportunity</p> <p>18 not to respond to e-mails that I have sent out</p> <p>19 to you.</p> <p>20 Not all the time, but it's a</p> <p>21 pattern, as far as I'm concerned.</p> <p>22 Q Well, how about this, how about</p> <p>23 like we have been on call on weekends, on</p> <p>24 autopsy call, I've never been on surgical</p> <p>25 pathology call with you, but have I -- I have</p>	<p style="text-align: right;">Page 185</p> <p>1 LEENA VARUGHESE</p> <p>2 Q I believe that's not true.</p> <p>3 DR. BRONHEIM: Maybe I can help.</p> <p>4 Q That's a misstatement that you</p> <p>5 are making?</p> <p>6 DR. BRONHEIM: Maybe I can help.</p> <p>7 Outside of call, what percent of e-mails</p> <p>8 and pages do you think Dr. Varughese has</p> <p>9 not responded to, rough estimate?</p> <p>10 THE WITNESS: Over the entire</p> <p>11 residency?</p> <p>12 DR. BRONHEIM: Yeah.</p> <p>13 THE WITNESS: That's kind of a</p> <p>14 hard one to estimate.</p> <p>15 DR. MARIN: Take the past year.</p> <p>16 THE WITNESS: Well, the past year</p> <p>17 is potentially problematic, but I would</p> <p>18 say that Leena has taken the opportunity</p> <p>19 not just to not answer my pages, I can't</p> <p>20 remember a single page of mine that</p> <p>21 Leena has answered this year.</p> <p>22 E-mails are haphazard.</p> <p>23 DR. MARIN: Thank you.</p> <p>24 Q Do you have my pager?</p> <p>25 A On me?</p>

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<p style="text-align: right;">Page 186</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. WEINFELD: His number.</p> <p>3 A I have access.</p> <p>4 Q Do you have access to my number?</p> <p>5 A Of course, it's on my bulletin</p> <p>6 board in my office.</p> <p>7 Q So, you said that you denied</p> <p>8 every request for the GI elective?</p> <p>9 A Um-hum.</p> <p>10 Q Were you the one who denied the</p> <p>11 request or was it Dr. Firpa? I'm confused?</p> <p>12 A Well, we, Dr. Firpa and I.</p> <p>13 Q Your title is you are the</p> <p>14 program director.</p> <p>15 A Yes.</p> <p>16 Q And Dr. Firpa's title?</p> <p>17 DR. WEINFELD: Let him answer the</p> <p>18 question.</p> <p>19 A I am the program director, Dr.</p> <p>20 Firpa is the educational director, starting</p> <p>21 since July 1st, and Dr. Firpa and I</p> <p>22 confirmed -- confer on a number of issues</p> <p>23 regarding the residents as a whole.</p> <p>24 Q So Dr. Firpa is director of</p> <p>25 educational activities, Dr. Firpa is the</p>	<p style="text-align: right;">Page 188</p> <p>1 LEENA VARUGHESE</p> <p>2 to exhibit from me Exhibit number 19.</p> <p>3 DR. WEINFELD: We are there, go</p> <p>4 ahead.</p> <p>5 Q So that basically shows a list</p> <p>6 of elective rotation requests for me for the</p> <p>7 entire following year, GI is in fact there, but</p> <p>8 there are also other rotations that I was</p> <p>9 interested I was not --</p> <p>10 DR. WEINFELD: So what's the</p> <p>11 question?</p> <p>12 Q If the point is that because I</p> <p>13 requested GI I was given that and not given</p> <p>14 maybe like an elective pathology in bone and</p> <p>15 soft tissue.</p> <p>16 DR. WEINFELD: So what's the</p> <p>17 question?</p> <p>18 DR. VARUGHESE: I had made other</p> <p>19 requests that wasn't granted.</p> <p>20 DR. WEINFELD: I am still waiting</p> <p>21 for a question.</p> <p>22 DR. VARUGHESE: I would also like</p> <p>23 you to refer to a different exhibit.</p> <p>24 MR. McEVOY: Can I ask a</p> <p>25 question, I'm not sure what this exhibit</p>
<p style="text-align: right;">Page 187</p> <p>1 LEENA VARUGHESE</p> <p>2 director of educational activities?</p> <p>3 A Yes.</p> <p>4 Q So I made the request to him on</p> <p>5 August 2nd and then he subsequently informed</p> <p>6 you at some point to deny my request or --</p> <p>7 A We discussed the request, the</p> <p>8 rationale potentially for having it.</p> <p>9 And the decision was made that</p> <p>10 we were going to deny it.</p> <p>11 Q When was this decision made?</p> <p>12 A I don't recall the specific day</p> <p>13 in advance of the elective we made the decision</p> <p>14 to deny the switch.</p> <p>15 Q I would like --</p> <p>16 A And that was obviously</p> <p>17 communicated to you.</p> <p>18 But you knew in advance that we</p> <p>19 were basically not going to permit switches</p> <p>20 once the year had begun unless there was</p> <p>21 significant extenuating circumstances.</p> <p>22 In this particular situation,</p> <p>23 you had requested the GI elective, and then</p> <p>24 wanted to switch it to something else.</p> <p>25 Q Actually I would like to refer</p>	<p style="text-align: right;">Page 189</p> <p>1 LEENA VARUGHESE</p> <p>2 is, 19, I mean is this something that</p> <p>3 Dr. Varughese created for this hearing,</p> <p>4 is it some official --</p> <p>5 DR. WEINFELD: Could you tell us</p> <p>6 what it is?</p> <p>7 Go ahead, tell us what this is.</p> <p>8 DR. VARUGHESE: This is actually</p> <p>9 a form that's given to every resident in</p> <p>10 the program that's already there, and</p> <p>11 you get to list what you would like to</p> <p>12 take next year.</p> <p>13 You can say you want to take GI</p> <p>14 elective, elective of the month, you can</p> <p>15 say I want to do hemopath several</p> <p>16 months, maybe, whatever.</p> <p>17 DR. WEINFELD: So what's the</p> <p>18 question relating to this?</p> <p>19 DR. VARUGHESE: It's just that I</p> <p>20 had requested -- I just want to note</p> <p>21 that I had requested other electives</p> <p>22 other than GI.</p> <p>23 DR. WEINFELD: You will have an</p> <p>24 opportunity.</p> <p>25 DR. MARIN: Thank you.</p>

<p style="text-align: right;">Page 190</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. VARUGHESE: Okay, next.</p> <p>3 Q The next exhibit I would like</p> <p>4 you to look at it is --</p> <p>5 DR. MARIN: Do you need the</p> <p>6 witness any more?</p> <p>7 DR. VARUGHESE: I do, actually.</p> <p>8 DR. MARIN: Can you direct the</p> <p>9 questions to him and then come to your</p> <p>10 exhibits.</p> <p>11 DR. VARUGHESE: Yes.</p> <p>12 Q Dr. Lento, do you recall</p> <p>13 e-mailing me that you had ended academic</p> <p>14 advisement?</p> <p>15 Period of academic advisement</p> <p>16 has ended?</p> <p>17 A Yes, I e-mailed you that the</p> <p>18 period of the advisement had ended, that's</p> <p>19 correct, and I wanted to meet with you to</p> <p>20 discuss it, that's correct.</p> <p>21 I think you misinterpreted it.</p> <p>22 Q But according to the academic</p> <p>23 advisement, which is exhibit -- it's in the</p> <p>24 Department's Exhibit list.</p> <p>25 DR. WEINFELD: Can you guys help</p>	<p style="text-align: right;">Page 192</p> <p>1 LEENA VARUGHESE</p> <p>2 Q So did you determine that my</p> <p>3 period of academic advisement had ended without</p> <p>4 actually ensuring that I had met all the</p> <p>5 requirements?</p> <p>6 A If you note here in follow-up,</p> <p>7 we will meet again in three months to review</p> <p>8 your progress.</p> <p>9 So basically at that point it</p> <p>10 was around March when the period designed for</p> <p>11 your academic advisement would have ended, but</p> <p>12 we were to review your progress to determine</p> <p>13 whether or not we would have to proceed with</p> <p>14 any further disciplinary actions, or if you had</p> <p>15 satisfied the criteria that we had laid down in</p> <p>16 the academic advisement.</p> <p>17 Then we may have taken you off</p> <p>18 the disciplinary action and you could have</p> <p>19 proceeded as other residents would have.</p> <p>20 Q Okay, but you didn't try to</p> <p>21 figure out if I had met all the requirements?</p> <p>22 A You hadn't met all the</p> <p>23 requirements.</p> <p>24 Q Until April 26th.</p> <p>25 A No, you had not met the</p>
<p style="text-align: right;">Page 191</p> <p>1 LEENA VARUGHESE</p> <p>2 us with this, which one is that?</p> <p>3 DR. FIRPA: Number 3.</p> <p>4 Department's Exhibit 3.</p> <p>5 MR. McEVOY: That's the academic</p> <p>6 advisement.</p> <p>7 DR. WEINFELD: Right.</p> <p>8 DR. WEINFELD: Do you want to ask</p> <p>9 a question?</p> <p>10 Q Yes, according to this it just</p> <p>11 states that this is dependent on have I</p> <p>12 performed an academic advisement not</p> <p>13 necessarily, so if he entered the period of</p> <p>14 academic advisement without noting how I had</p> <p>15 performed during the academic advisement</p> <p>16 period, I don't understand why Dr. Lento would</p> <p>17 make the statement that the period of academic</p> <p>18 advisement had ended when, in fact, he hadn't</p> <p>19 determined or deemed that and academic</p> <p>20 advisement can --</p> <p>21 DR. WEINFELD: So the question</p> <p>22 is?</p> <p>23 Just form it in a question. It</p> <p>24 sounds like there is a question there, so</p> <p>25 go ahead and ask it.</p>	<p style="text-align: right;">Page 193</p> <p>1 LEENA VARUGHESE</p> <p>2 requirements.</p> <p>3 DR. WEINFELD: Did the meeting</p> <p>4 take place, was there a meeting that</p> <p>5 took place?</p> <p>6 THE WITNESS: No, she basically</p> <p>7 did not meet with me, she did not</p> <p>8 respond to my e-mail, it wasn't until I</p> <p>9 reached out to our Chair,, Dr.</p> <p>10 Cordone-Cardo.</p> <p>11 DR. VARUGHESE: That's not</p> <p>12 actually right, my Exhibit 12 shows that</p> <p>13 I did respond to Dr. Lento the following</p> <p>14 day, in fact.</p> <p>15 DR. WEINFELD: One second.</p> <p>16 DR. VARUGHESE: I also spoke to</p> <p>17 him, I know.</p> <p>18 DR. WEINFELD: Let's go to 12,</p> <p>19 hold on.</p> <p>20 DR. WEINFELD: Big book number</p> <p>21 12. In Exhibit 12 there is one e-mail</p> <p>22 in there dated May 3rd.</p> <p>23 DR. VARUGHESE: Well, the second,</p> <p>24 it's a string e-mail string so on April</p> <p>25 27 I say okay, I actually spoke to Dr.</p>

<p style="text-align: right;">Page 194</p> <p>1 LEENA VARUGHESE</p> <p>2 Lento as well and he said okay, did you</p> <p>3 get me my e-mail?</p> <p>4 What's going on?</p> <p>5 I said yes, I got your e-mail, okay</p> <p>6 I will meet with you. Let me know when we</p> <p>7 need to meet and --</p> <p>8 THE WITNESS: I believe that was</p> <p>9 after Dr. Cordone-Cardo had already</p> <p>10 reached out to you as Chairman.</p> <p>11 DR. VARUGHESE: He reached out to</p> <p>12 me, when did he reach out to? Me I</p> <p>13 don't have that.</p> <p>14 Q Do you have that e-mail?</p> <p>15 DR. CORDONE-CARDO: I reached out</p> <p>16 to you as soon as I arrived in the</p> <p>17 program. In our first meeting was on</p> <p>18 May 3rd.</p> <p>19 DR. VARUGHESE: When did you</p> <p>20 arrive at the program?</p> <p>21 DR. CORDONE-CARDO: April 1st, so</p> <p>22 my first week of acting as the new Chair</p> <p>23 I already reached out to you and</p> <p>24 actually was the case it the including</p> <p>25 because I was worried about many</p>	<p style="text-align: right;">Page 196</p> <p>1 LEENA VARUGHESE</p> <p>2 by either of you?</p> <p>3 DR. MARIN: Question?</p> <p>4 Q Did you inform me of that? You</p> <p>5 didn't inform me of that?</p> <p>6 A I did not, that was not</p> <p>7 something --</p> <p>8 DR. WEINFELD: We have one</p> <p>9 question, actually, you want to ask it.</p> <p>10 DR. BRONHEIM: Dr. Lento, going</p> <p>11 back to notice of advisement in the</p> <p>12 Department's Exhibit binder, Exhibit 3,</p> <p>13 it says Dear Leena, this letter is to</p> <p>14 inform you, you are being placed on</p> <p>15 academic advisement. This decision is</p> <p>16 based on investigation of your</p> <p>17 altercations with other residents while</p> <p>18 on the surgical pathology rotation</p> <p>19 December 8 and December 10, 2010.</p> <p>20 THE WITNESS: Yes.</p> <p>21 DR. BRONHEIM: Do you remember</p> <p>22 what those altercations were about?</p> <p>23 THE WITNESS: Yes, I can briefly</p> <p>24 summarize it for you. I was actually</p> <p>25 away at the time at a meeting, and Leena</p>
<p style="text-align: right;">Page 195</p> <p>1 LEENA VARUGHESE</p> <p>2 circumstances.</p> <p>3 My time will come to answer the</p> <p>4 questions and the first time we met was on</p> <p>5 May 3rd.</p> <p>6 DR. WEINFELD: Any other</p> <p>7 questions for this witness?</p> <p>8 Q Are you aware that I wasn't --</p> <p>9 you never spoke to me or Dr. Firpa did not</p> <p>10 inform me that if I was interested in</p> <p>11 dermatopathology I can attend the sign-outs in</p> <p>12 the morning, or you had cleared that with Dr.</p> <p>13 Phelps.</p> <p>14 Did you clear that with Dr.</p> <p>15 Phelps? It seemed from this conversation with</p> <p>16 this question and answer session that took</p> <p>17 place, it seems that you had already discussed</p> <p>18 this with Dr. Phelps and that I was able to</p> <p>19 attend sign-out if I wanted to?</p> <p>20 A I did not have that direct</p> <p>21 conversation.</p> <p>22 Q But it seems that you were aware</p> <p>23 that I could do that if I wanted to?</p> <p>24 A Yes.</p> <p>25 Q But I was not informed of that,</p>	<p style="text-align: right;">Page 197</p> <p>1 LEENA VARUGHESE</p> <p>2 was in an altercation with one of our</p> <p>3 Chief Residents while shewas on the</p> <p>4 surgical pathology service.</p> <p>5 An altercation that was loud and</p> <p>6 disruptive to the service related to her</p> <p>7 ability to provide patient care with</p> <p>8 regard to very specific specimens that she</p> <p>9 was expected to be grossing or examine.</p> <p>10 DR. BRONHEIM: There are two</p> <p>11 dates, was it like one extended episode</p> <p>12 with a single Chief Resident?</p> <p>13 THE WITNESS: If I recall</p> <p>14 correctly the December 10th incident was</p> <p>15 related to another resident that she was</p> <p>16 blaming for having us caused all the</p> <p>17 problems that have basically resulted in</p> <p>18 her being essentially placed on academic</p> <p>19 advisement.</p> <p>20 DR. BRONHEIM: Thank you.</p> <p>21 DR. WEINFELD: Any further</p> <p>22 questions?</p> <p>23 Q Who was the other resident that</p> <p>24 I blamed?</p> <p>25 A Dr. Jordan.</p>

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<p style="text-align: right;">Page 198</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. MARIN: No further questions?</p> <p>3 DR. VARUGHESE: No, not at the</p> <p>4 moment.</p> <p>5 DR. WEINFELD: Thanks very much.</p> <p>6 THE WITNESS: Thank you.</p> <p>7 DR. VARUGHESE: Actually can we</p> <p>8 bring Dr. Lento back?</p> <p>9 DR. WEINFELD: No, but in your</p> <p>10 statement you can address an issue if</p> <p>11 you need to address it.</p> <p>12</p> <p>13 S H E M A P A T E L, called as a</p> <p>14 witness, having been first duly sworn by</p> <p>15 the Notary Public, was examined and</p> <p>16 testified as follows:</p> <p>17</p> <p>18 DR. WEINFELD: Okay.</p> <p>19</p> <p>20 DIRECT EXAMINATION BY DR. FIRPA:</p> <p>21</p> <p>22 Q Thank you, Ms. Patel.</p> <p>23 Who is your employer?</p> <p>24 A Mount Sinai Medical Center.</p> <p>25 Q What is your job title?</p>	<p style="text-align: right;">Page 200</p> <p>1 LEENA VARUGHESE</p> <p>2 I was supposed to meet her in the resident</p> <p>3 room, but she met me at the elevators and she</p> <p>4 took the folder from me.</p> <p>5 At that point I did not have any</p> <p>6 further discussions with her after that.</p> <p>7 Q Did you at any time emphasize to</p> <p>8 her the importance of having a doctor's</p> <p>9 appointment as part of her application?</p> <p>10 A Yes, I did.</p> <p>11 Q Did she agree to proceed with</p> <p>12 that request?</p> <p>13 A Yes, she said she was going to</p> <p>14 call her doctor and get back to me the next</p> <p>15 day.</p> <p>16 Q On September 20th, you met with</p> <p>17 Dr. Varughese ones again, were you aware that</p> <p>18 she had requested a leave of absence by then?</p> <p>19 A No, I was not.</p> <p>20 Q Were you also aware that Dr.</p> <p>21 Varughese had been instructed not to come to</p> <p>22 work pending approval of her request for leave?</p> <p>23 A Yes, I was.</p> <p>24 Q How did you know that?</p> <p>25 A Yes, I did.</p>
<p style="text-align: right;">Page 199</p> <p>1 LEENA VARUGHESE</p> <p>2 A Currently I am interim</p> <p>3 department administrator for pathology.</p> <p>4 Q What are your job duties as</p> <p>5 administrator of the pathology department?</p> <p>6 A The day-to-day operation,</p> <p>7 financial, dealing with residents, employees,</p> <p>8 faculty.</p> <p>9 Q Do you recall on September 15</p> <p>10 meeting with me and Dr. Varughese following the</p> <p>11 incident early morning when she was considered</p> <p>12 to be unstable?</p> <p>13 A Um-hum.</p> <p>14 Q Did you remember, and can you</p> <p>15 relate to us what happened when you gave her</p> <p>16 information about her request for a leave of</p> <p>17 absence?</p> <p>18 A Sure. When we met with her we</p> <p>19 discussed FMLA, we talked to her about giving</p> <p>20 her papers later in the day to go she should</p> <p>21 meet with me to go over the FMLA paperwork, the</p> <p>22 designation form and such papers like that.</p> <p>23 Q Did you meet with her later on</p> <p>24 that day?</p> <p>25 A Yes, she met me on Annenberg 15,</p>	<p style="text-align: right;">Page 201</p> <p>1 LEENA VARUGHESE</p> <p>2 Q How did you know that?</p> <p>3 A Oh, how did I know that. You</p> <p>4 and I had discussed it with Karen Tiger and</p> <p>5 Paul Johnson the day before and it was</p> <p>6 instructed that she should not appear to work</p> <p>7 until we knew what the status of her FMLA was.</p> <p>8 Q Did you attempt to contact her</p> <p>9 on September 16th and 19th?</p> <p>10 A Yes, I did.</p> <p>11 Q Why?</p> <p>12 A Because we had not heard from</p> <p>13 her, she had not come to work and we were</p> <p>14 genuinely concerned about her well-being.</p> <p>15 Q Did she respond to any of your</p> <p>16 e-mails or phone calls?</p> <p>17 A No.</p> <p>18 Q On September 20th did you see</p> <p>19 her at or near Mount Sinai?</p> <p>20 A It was close to Mount Sinai,</p> <p>21 yes.</p> <p>22 Q Where and at what time?</p> <p>23 A It was a Starbucks at 97th and</p> <p>24 Lexington or 96th and Lexington.</p> <p>25 Q At what time?</p>

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<p style="text-align: right;">Page 202</p> <p>1 LEENA VARUGHESE</p> <p>2 A Around 8:00 a.m. a little before</p> <p>3 8:00 a.m.</p> <p>4 Q Did you speak to her?</p> <p>5 A As I was walking in I saw her</p> <p>6 and she approached me.</p> <p>7 Q What was the conversation about?</p> <p>8 A She had wanted to know about</p> <p>9 deferring her FMLA, she said she was feeling</p> <p>10 better and wanted to not take it at that time.</p> <p>11 Q Did she mention anything else</p> <p>12 about her intent of activity for that day?</p> <p>13 A She said she was headed to a</p> <p>14 conference but she wanted to know more about</p> <p>15 deferring her FMLA, so I knew that she</p> <p>16 shouldn't go to conference because the</p> <p>17 residents had concerns, the faculty had</p> <p>18 concerns, so I asked her to come with me to my</p> <p>19 office.</p> <p>20 Q What did you do then?</p> <p>21 A So we got there, we sat down and</p> <p>22 we started talking and then a visitor came in</p> <p>23 looking for the President.</p> <p>24 Q What happened then?</p> <p>25 A So I walked out to just point to</p>	<p style="text-align: right;">Page 204</p> <p>1 LEENA VARUGHESE</p> <p>2 I asked her again, it was like</p> <p>3 what are you doing, why were you going through</p> <p>4 my files?</p> <p>5 And she said what's the big</p> <p>6 deal? And I said how would you feel if someone</p> <p>7 went through your things.</p> <p>8 Your purse is sitting there, how</p> <p>9 would you feel if you caught me going through</p> <p>10 your purse?</p> <p>11 I said if I walked into your</p> <p>12 work station and was going through your work</p> <p>13 station how would you feel if I went through</p> <p>14 your things?</p> <p>15 I said my office is</p> <p>16 confidential, you know, I have files in my</p> <p>17 office that are confidential and you shouldn't</p> <p>18 go through them, it's unprofessional.</p> <p>19 She continued to say what's the</p> <p>20 big deal? She stated that I should chill out</p> <p>21 and it didn't phase her that it was wrong.</p> <p>22 DR. BRONHEIM: Could these have</p> <p>23 been confidential files?</p> <p>24 THE WITNESS: Yes, I work in the</p> <p>25 office of the President in my real job,</p>
<p style="text-align: right;">Page 203</p> <p>1 LEENA VARUGHESE</p> <p>2 where Dr. Davis' office was, came right back to</p> <p>3 my office and literally a few seconds and she</p> <p>4 was going through some of my files.</p> <p>5 DR. WEINFELD: On a computer, in</p> <p>6 a file cabinet?</p> <p>7 A No, there were files in my desk.</p> <p>8 There was a stack of files in the corner of my</p> <p>9 desk.</p> <p>10 DR. BRONHEIM: Can you describe</p> <p>11 what you observed?</p> <p>12 THE WITNESS: As I was walking in</p> <p>13 I saw her going through the files like</p> <p>14 this, looking at what was inside.</p> <p>15 DR. BRONHEIM: Were they other</p> <p>16 people's files or whose files were they?</p> <p>17 THE WITNESS: They were my files,</p> <p>18 like department files.</p> <p>19 Q What did you -- did you ask her</p> <p>20 what she was doing?</p> <p>21 A Yes, I asked her. I said Leena,</p> <p>22 what are you doing, why are you going through</p> <p>23 my files?</p> <p>24 And she kind of didn't say</p> <p>25 anything at first.</p>	<p style="text-align: right;">Page 205</p> <p>1 LEENA VARUGHESE</p> <p>2 yes.</p> <p>3 DR. FIRPA: No further questions.</p> <p>4 DR. WEINFELD: Dr. Varugheese.</p> <p>5</p> <p>6 CROSS-EXAMINATION BY DR. VARUGHESE:</p> <p>7</p> <p>8 Q So, you called me on Tuesday was</p> <p>9 it, September what was it, 20th? Or the 19th,</p> <p>10 you called me on the 19th.</p> <p>11 A Yes, I called you on the 16th</p> <p>12 and the 19th.</p> <p>13 Q So you called me on the 19th,</p> <p>14 why did you ask me to come to your office on</p> <p>15 the 19th?</p> <p>16 A I didn't ask you to come to my</p> <p>17 office on the 19th.</p> <p>18 Q You did. You called, you left a</p> <p>19 message, said you need to speak with me.</p> <p>20 A I asked you what the status of</p> <p>21 the FMLA was, but I asked you if you were able</p> <p>22 to speak to your physician to get the paperwork</p> <p>23 going because I wanted to help you.</p> <p>24 Q So let me rephrase the question,</p> <p>25 did I come to your office on the 19th, this is</p>

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<p style="text-align: right;">Page 206</p> <p>1 LEENA VARUGHESE</p> <p>2 Monday?</p> <p>3 A I have to recall, was that the</p> <p>4 day you came to sign the designation form?</p> <p>5 Q Well, that was the day I came so</p> <p>6 that you can sign the designation form and gave</p> <p>7 it to you --</p> <p>8 A I believe the 19th, yes, you</p> <p>9 came.</p> <p>10 Q Because you needed a date</p> <p>11 verifying and the medical leave of absence</p> <p>12 form?</p> <p>13 A I believe what was the day? I</p> <p>14 don't recall, but I can check.</p> <p>15 Q That was the 19th?</p> <p>16 DR. WEINFELD: Move on.</p> <p>17 Q That was Monday afternoon,</p> <p>18 Monday evening like 4:30?</p> <p>19 A Okay.</p> <p>20 Q And Kimberly Joseph, she was</p> <p>21 there?</p> <p>22 A She was there to witness that.</p> <p>23 Q So essentially you didn't like</p> <p>24 date and sign these forms or anything up until</p> <p>25 then?</p>	<p style="text-align: right;">Page 208</p> <p>1 LEENA VARUGHESE</p> <p>2 form and do you mind dating it, so when after I</p> <p>3 have spoken to my doctor and they actually</p> <p>4 approve the family medical leave of absence?</p> <p>5 A We never talked about</p> <p>6 backdating.</p> <p>7 Q I did ask you --</p> <p>8 DR. MARIN: You can ask her the</p> <p>9 question. If she says no, you can't</p> <p>10 keep asking her. She has a right to say</p> <p>11 yes or no, yes or no.</p> <p>12 DR. VARUGHESE: All right.</p> <p>13 Q So I asked you that, if you</p> <p>14 could date the form to when after I have spoken</p> <p>15 to my doctors and then they will approve it,</p> <p>16 did I have that conversation with you?</p> <p>17 A No, we talked about -- you</p> <p>18 talked about deferring your FMLA.</p> <p>19 Q I didn't talk about deferring my</p> <p>20 FMLA?</p> <p>21 DR. MARIN: Remember, yes or no,</p> <p>22 you asked her, she said no, you go on to</p> <p>23 your next question.</p> <p>24 Q So the next question is but you</p> <p>25 at that point said where are you going?</p>
<p style="text-align: right;">Page 207</p> <p>1 LEENA VARUGHESE</p> <p>2 But you were supposed to have</p> <p>3 before you you gave them to me, right?</p> <p>4 A What do you mean?</p> <p>5 Q You were supposed to date and</p> <p>6 sign because you dated the forms for when, when</p> <p>7 you signed it?</p> <p>8 A Right, because remember we were</p> <p>9 supposed to meet and you met me at the elevator</p> <p>10 and you took the forms from me, I told you you</p> <p>11 should come sit down and meet with me so we can</p> <p>12 could designate the form.</p> <p>13 Q No, you didn't, you didn't say</p> <p>14 that to me.</p> <p>15 DR. WEINFELD: Where are you</p> <p>16 going with this? What's the question?</p> <p>17 Q So basically you backdated the</p> <p>18 form?</p> <p>19 A I didn't backdate it, I dated</p> <p>20 that day the 19th or whatever day it was.</p> <p>21 Q All right, so the following</p> <p>22 morning I saw you at Starbucks, right?</p> <p>23 A Yes.</p> <p>24 Q So I said hello to you just to</p> <p>25 be polite and I just said oh, you dated that</p>	<p style="text-align: right;">Page 209</p> <p>1 LEENA VARUGHESE</p> <p>2 A That is correct.</p> <p>3 Q And I said I'm going to the CP</p> <p>4 core conference, that's at 8:00 at the Icahn</p> <p>5 building, right?</p> <p>6 A Um-hum.</p> <p>7 Q And what did you say, you said</p> <p>8 you can't go to the floor, what did you -- you</p> <p>9 said I couldn't go to the floor?</p> <p>10 A I asked you if you can come with</p> <p>11 me, so I can put you in contact with Karen</p> <p>12 Tiger to talk more about the FMLA.</p> <p>13 Q Why did I need to talk more</p> <p>14 about the FMLA at that point?</p> <p>15 A Because you approached me in</p> <p>16 Starbucks and you had questions about it.</p> <p>17 Q I just had a minor question</p> <p>18 about dating issues, but then in terms of</p> <p>19 dating the form to when I actually take the</p> <p>20 leave, because obviously from that day onward</p> <p>21 is when the FMLA is in effect.</p> <p>22 So you told me that I couldn't</p> <p>23 go to the floor and you asked me to come to</p> <p>24 your office?</p> <p>25 DR. WEINFELD: Is there a</p>

<p style="text-align: right;">Page 210</p> <p>1 LEENA VARUGHESE</p> <p>2 question?</p> <p>3 Q Yes.</p> <p>4 A Yes.</p> <p>5 Q So when I was in the office,</p> <p>6 what were you doing, you were calling, who were</p> <p>7 you calling?</p> <p>8 A I didn't make a phone call, I</p> <p>9 e-mailed Karen Tiger and Dr. Firpa to let them</p> <p>10 know you were here.</p> <p>11 Q So, did Dr. Firpa come</p> <p>12 downstairs to your office that morning?</p> <p>13 A He did, yes.</p> <p>14 Q This was before 9:00 a.m.?</p> <p>15 A I believe so, yes.</p> <p>16 Q So meanwhile I was telling you</p> <p>17 that I wanted to go to the CP core conference</p> <p>18 because I was not sick, right?</p> <p>19 A I don't recall actually, to be</p> <p>20 honest with you.</p> <p>21 Q That's fine.</p> <p>22 So then you stepped out, tell me</p> <p>23 what was on your desk?</p> <p>24 A I had a stack of files on my</p> <p>25 desk.</p>	<p style="text-align: right;">Page 212</p> <p>1 LEENA VARUGHESE</p> <p>2 office, right?</p> <p>3 A Correct.</p> <p>4 Q And you left, you left me alone</p> <p>5 in your office?</p> <p>6 A For a few seconds only.</p> <p>7 Q For a few seconds.</p> <p>8 A Yes.</p> <p>9 DR. WEINFELD: Okay, go ahead.</p> <p>10 DR. VARUGHESE: In my</p> <p>11 recollection it wasn't a few seconds.</p> <p>12 Q So when you came back you</p> <p>13 think -- you thought that I was looking at your</p> <p>14 files?</p> <p>15 A I saw you looking at the files.</p> <p>16 Q Did you see me like what</p> <p>17 happened, was it in my lap, was it like this?</p> <p>18 A No, it was still on my desk.</p> <p>19 Q Okay, all right, so they were</p> <p>20 still on the desk.</p> <p>21 Do you often leave people alone</p> <p>22 in your office?</p> <p>23 A If someone comes to see the</p> <p>24 President of the medical center and I have to</p> <p>25 help them, yes.</p>
<p style="text-align: right;">Page 211</p> <p>1 LEENA VARUGHESE</p> <p>2 Q How many files was that?</p> <p>3 A I don't recall, I have tons of</p> <p>4 files on my desk at a given time, I don't</p> <p>5 remember how many exactly.</p> <p>6 Q Well, this is what I remember,</p> <p>7 because I was accused of looking through her</p> <p>8 files.</p> <p>9 DR. WEINFELD: So ask her a</p> <p>10 question.</p> <p>11 Q So as I recall there was one</p> <p>12 file, a green file, actually, that's on your</p> <p>13 desk at the corner and I was sitting in front</p> <p>14 of it and my coffee was right next to it, so</p> <p>15 that's all I recall.</p> <p>16 DR. WEINFELD: Is there a</p> <p>17 question.</p> <p>18 Q Is that what you recall or do</p> <p>19 you recall several different files?</p> <p>20 A I recall several different</p> <p>21 files.</p> <p>22 Q That's all I need to know. So I</p> <p>23 only recall one file there.</p> <p>24 So you -- somebody came by the</p> <p>25 door and they wanted to be escorted to a nearby</p>	<p style="text-align: right;">Page 213</p> <p>1 LEENA VARUGHESE</p> <p>2 Q Especially -- well, when you</p> <p>3 have confidential documentation or documents in</p> <p>4 your office, do you think that's appropriate?</p> <p>5 A People at Mount Sinai I trust</p> <p>6 and would never think would do something --</p> <p>7 Q I wasn't at Mount Sinai at that</p> <p>8 point. I guess you trusted me, okay.</p> <p>9 So my point --</p> <p>10 DR. MARIN: No point, are there</p> <p>11 any or questions for this witness?</p> <p>12 DR. VARUGHESE: I do.</p> <p>13 DR. MARIN: Please go ahead with</p> <p>14 your questions.</p> <p>15 Q So you decided to call Karen</p> <p>16 Tiger and basically you wanted me to go over to</p> <p>17 meet her, why was that?</p> <p>18 A So you can discuss the FMLA</p> <p>19 paperwork and the incident in my office,</p> <p>20 because I --</p> <p>21 Q But you were just -- that just</p> <p>22 came up on the fly, not even necessarily?</p> <p>23 A I have e-mailed her again</p> <p>24 afterwards for the incident, Dr. Firpa was on</p> <p>25 that e-mail as well.</p>

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<p style="text-align: right;">Page 214</p> <p>1 LEENA VARUGHESE</p> <p>2 Q But there was really no --</p> <p>3 DR. MARIN: Dr. Varughese, back</p> <p>4 to the questions. You ask her a</p> <p>5 question, she'll respond to it, then you</p> <p>6 ask her another question.</p> <p>7 It's not open for discussion.</p> <p>8 DR. VARUGHESE: There was nothing</p> <p>9 here that wanted me to go through her.</p> <p>10 DR. MARIN: This is not a</p> <p>11 discussion, you will have a chance later</p> <p>12 to give your opinion.</p> <p>13 DR. VARUGHESE: All right, sorry.</p> <p>14 Q So, do you think what I talked</p> <p>15 to you, just me having a basic question about</p> <p>16 the FMLA leave basically warranted you dragging</p> <p>17 me to your office and making me wait there for</p> <p>18 the entire core conference that morning, or</p> <p>19 were there other reasons for that?</p> <p>20 A No, there wasn't.</p> <p>21 Q That was your only reason.</p> <p>22 That's all I needed to know, good.</p> <p>23 DR. MARIN: Thank you.</p> <p>24 DR. WEINFELD: Thanks very much.</p> <p>25 MR. MacDONALD: Let's make it</p>	<p style="text-align: right;">Page 216</p> <p>1 LEENA VARUGHESE</p> <p>2 medical education.</p> <p>3 Q What are your duties in that</p> <p>4 capacity?</p> <p>5 A I help to oversee the residency</p> <p>6 programs in our consortium, there are 91 in</p> <p>7 all, so we help to assess program quality and</p> <p>8 to help programs with their curricula, also to</p> <p>9 help with resident issues, to help residents</p> <p>10 resolve concerns and to assist programs when</p> <p>11 they are dealing with resident issues.</p> <p>12 Q Would you describe</p> <p>13 professionalism standards and core</p> <p>14 requirements?</p> <p>15 A So there are six ACGME core</p> <p>16 competencies that are expected to be part of</p> <p>17 resident education.</p> <p>18 One of them, one of those</p> <p>19 competencies is professionalism, so residents</p> <p>20 are expected to attain this competency which</p> <p>21 entails having compassion and respect for</p> <p>22 others, to have a commitment to patient care</p> <p>23 that supersedes self-interest, and to display</p> <p>24 sensitivity to a diverse range of patients and</p> <p>25 to be dependable and to just sort of embody</p>
<p style="text-align: right;">Page 215</p> <p>1 LEENA VARUGHESE</p> <p>2 clear that Dr. Varughese' binder with</p> <p>3 the documents are in the record, are</p> <p>4 admitted in the record and the Committee</p> <p>5 will take them for what they are worth</p> <p>6 and connect them to the testimony as</p> <p>7 appropriate.</p> <p>8 And the same is true with the the</p> <p>9 Department's exhibits, so that there is no</p> <p>10 question what's in and what's out of the</p> <p>11 evidence.</p> <p>12 DR. MARIN: Understood.</p> <p>13</p> <p>14 PAUL JOHNSON, called as a</p> <p>15 witness, having been first duly sworn by</p> <p>16 the Notary Public, was examined and</p> <p>17 testified as follows:</p> <p>18</p> <p>19 DIRECT EXAMINATION BY DR. FIRPA:</p> <p>20</p> <p>21 Q Good evening, Mr. Johnson.</p> <p>22 Who is your employer?</p> <p>23 A Mount Sinai School of Medicine.</p> <p>24 Q What is your job title?</p> <p>25 A Director of GME, graduate</p>	<p style="text-align: right;">Page 217</p> <p>1 LEENA VARUGHESE</p> <p>2 professionalism as it's defined by the ACGME.</p> <p>3 Q Do you recall any questions or</p> <p>4 clarifications regarding Dr. Varughese and</p> <p>5 advice to the Department during the period</p> <p>6 after her final warning?</p> <p>7 A Yes.</p> <p>8 Q Would you tell us about that?</p> <p>9 A Are we talking about advising</p> <p>10 Dr. Varughese or advising the Department.</p> <p>11 Q Advising the Department on how</p> <p>12 to deal.</p> <p>13 A So, in the period after the</p> <p>14 final warning, the first time the Department</p> <p>15 sought advice from our office was in Dr.</p> <p>16 Firpa's first meeting with Dr. Varughese as</p> <p>17 outlined in the final warning.</p> <p>18 Dr. Varughese was initially</p> <p>19 refusing to participate in the meeting and Dr.</p> <p>20 Firpa called a couple of times when Dr.</p> <p>21 Varughese was saying things such as that the</p> <p>22 Department needed to speak with her lawyer</p> <p>23 regarding all of the professionalism concerns.</p> <p>24 So, I made sure that the</p> <p>25 Department was aware that Dr. Varughese didn't</p>

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<p style="text-align: right;">Page 218</p> <p>1 LEENA VARUGHESE</p> <p>2 have an option about participating in these</p> <p>3 meetings, and the meeting eventually did go</p> <p>4 forward.</p> <p>5 After that, the program was --</p> <p>6 Dr. Firpa was new to his position and so I</p> <p>7 would receive fairly regular updates about Dr.</p> <p>8 Varughese' performance.</p> <p>9 At -- I would say the next time</p> <p>10 I became aware of an issue it related to the</p> <p>11 coverage for surgical pathology.</p> <p>12 The Chief Residents were having</p> <p>13 issues with Dr. Varughese and I advised Dr.</p> <p>14 Firpa to have the program leadership address</p> <p>15 the concerns, to sort of back up the Chief</p> <p>16 Residents in what they were experiencing.</p> <p>17 After that, we did have some</p> <p>18 interaction with the Department related to Dr.</p> <p>19 Varughese' requests to switch her elective</p> <p>20 rotation.</p> <p>21 We were aware that the</p> <p>22 Department had really been paying a lot of</p> <p>23 attention to AP time, anatomic pathology and</p> <p>24 clinical pathology time and how it was balanced</p> <p>25 in resident schedules and we were confident</p>	<p style="text-align: right;">Page 220</p> <p>1 LEENA VARUGHESE</p> <p>2 what they are represent?</p> <p>3 A This was an e-mail responding to</p> <p>4 Dr. -- an e-mail from Dr. Varughese about on</p> <p>5 various topics, including who was responsible</p> <p>6 for the -- being program director in pathology,</p> <p>7 access to various policies in the Department,</p> <p>8 also whether she was required to present proof</p> <p>9 of an illness when she refused to take a call</p> <p>10 assignment, and also related to the resident</p> <p>11 schedules and the division between anatomic</p> <p>12 pathology time and clinical pathology time.</p> <p>13 Q What did you say about all this?</p> <p>14 A I just -- most of the e-mail was</p> <p>15 just clarifying policies and procedures, I mean</p> <p>16 there is one clearly designated program</p> <p>17 director who is Dr. Lento, and both Dr. Firpa</p> <p>18 and Dr. Lento have responsibilities related to</p> <p>19 the residency, but in terms of the ACGME and</p> <p>20 designating someone, Dr. Lento was the program</p> <p>21 director.</p> <p>22 With regard to the policies, I</p> <p>23 did offer her assistance if she was looking for</p> <p>24 a particular policy, I was willing to sort of</p> <p>25 help her in talking to the Department to make</p>
<p style="text-align: right;">Page 219</p> <p>1 LEENA VARUGHESE</p> <p>2 that the Department had really given good</p> <p>3 consideration to the request and ultimately</p> <p>4 denied it.</p> <p>5 So we sort of stood by the</p> <p>6 Department in its decision there and then in</p> <p>7 the final period there was sort of rapid</p> <p>8 sequence of advice that was given to the</p> <p>9 Department about the need for leave and that</p> <p>10 was, I don't know, should I --</p> <p>11 DR. WEINFELD: Go ahead.</p> <p>12 Q How did you become aware that</p> <p>13 Dr. Varughese was requesting a leave of</p> <p>14 absence?</p> <p>15 A I became aware of Dr. Varughese'</p> <p>16 need for leave when she was expected to give a</p> <p>17 conference presentation in mid-September and</p> <p>18 she didn't give that presentation.</p> <p>19 Dr. Firpa met with her after she</p> <p>20 didn't present and reported to us that Dr.</p> <p>21 Varughese was unable to perform her function as</p> <p>22 a resident because she was having serious</p> <p>23 issues.</p> <p>24 Q Would you refer to Exhibit 15,</p> <p>25 Department's Exhibit 15, and briefly describe</p>	<p style="text-align: right;">Page 221</p> <p>1 LEENA VARUGHESE</p> <p>2 sure that if there was such a policy that the</p> <p>3 residents would have access to it.</p> <p>4 I confirmed that she was</p> <p>5 required to submit proof of illness if the</p> <p>6 Department was requesting it and I also assured</p> <p>7 her that Dr. Firpa and Dr. Lento were carefully</p> <p>8 looking into the resident schedules to make</p> <p>9 sure that the ACGME requirements for time in</p> <p>10 each side of pathology were met.</p> <p>11 Q Let's go back to the request for</p> <p>12 leave of absence following September 15th.</p> <p>13 Were you aware that I had</p> <p>14 instructed her not to come to work pending</p> <p>15 approval of her leave request?</p> <p>16 A Yes.</p> <p>17 Q Were you aware that Dr.</p> <p>18 Varughese ignored that request and continued</p> <p>19 coming to work?</p> <p>20 A I didn't become aware of it</p> <p>21 until the following week, but yes.</p> <p>22 DR. WEINFELD: Dr. Firpa, was</p> <p>23 that request made in writing, the</p> <p>24 request for her not to come to work?</p> <p>25 DR. FIRPA: Yes, on the 16th.</p>

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<p style="text-align: right;">Page 222</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. WEINFELD: Can we have a copy</p> <p>3 of that somewhere?</p> <p>4 DR. BRONHEIM: Under Mount Sinai</p> <p>5 law if that is written, is that --</p> <p>6 DR. WEINFELD: There is no Mount</p> <p>7 Sinai law.</p> <p>8 DR. BRONHEIM: Mount Sinai</p> <p>9 guidelines, if such a letter is written,</p> <p>10 does it prohibit the resident from</p> <p>11 appearing.</p> <p>12 DR. LEITER: Is there</p> <p>13 documentation of her -- is there any</p> <p>14 documentation of your request for her</p> <p>15 not to come back?</p> <p>16 DR. WEINFELD: It looks like</p> <p>17 Exhibit 16, does that cover -- it's an</p> <p>18 e-mail from Dr. Firpa to Dr. Varughese.</p> <p>19 DR. FIRPA: Yes, on the last</p> <p>20 paragraph the second sentence from the</p> <p>21 last.</p> <p>22 I must also ask you not to return</p> <p>23 without the doctor's note and assessment</p> <p>24 for the leave of absence.</p> <p>25 DR. WEINFELD: Okay, thank you.</p>	<p style="text-align: right;">Page 224</p> <p>1 LEENA VARUGHESE</p> <p>2 Q Well, did you recall that she</p> <p>3 had intended to go to work and she was in</p> <p>4 violation of her direct and explicit request by</p> <p>5 me not to come to work until the doctor's note</p> <p>6 was provided and fill in the application for</p> <p>7 leave of absence?</p> <p>8 A Yes.</p> <p>9 Q What happened during that</p> <p>10 meeting between you, Dr. Varughese and Karen</p> <p>11 Tiger?</p> <p>12 A I think first we were interested</p> <p>13 in knowing why Dr. Varughese hadn't responded</p> <p>14 to e-mail and phone contact from the program to</p> <p>15 follow up on her leave of absence.</p> <p>16 And her response to that was</p> <p>17 that she didn't respond to the -- this contact</p> <p>18 because it didn't contain any questions, it</p> <p>19 just -- these contacts just stated facts.</p> <p>20 And I think she said if they had</p> <p>21 asked me whether I was working I would have</p> <p>22 said yes, and it was difficult to determine why</p> <p>23 she had been coming to work even though the</p> <p>24 Department had asked her not to be working in</p> <p>25 the period where her FMLA paperwork was being</p>
<p style="text-align: right;">Page 223</p> <p>1 LEENA VARUGHESE</p> <p>2 Q Did the GME office take any</p> <p>3 action with regard to what I have told you</p> <p>4 about the meeting with Dr. Varughese on the</p> <p>5 15th?</p> <p>6 A Yes, we did provide some advice</p> <p>7 about leave, but the day that followed Dr.</p> <p>8 Varughese' initial request for leave I</p> <p>9 contacted the physician wellness committee to</p> <p>10 arrange for an assessment.</p> <p>11 Well, to ask them to arrange for</p> <p>12 an assessment.</p> <p>13 DR. WEINFELD: Do we know if that</p> <p>14 assessment ever took place?</p> <p>15 THE WITNESS: If never took</p> <p>16 place.</p> <p>17 Q Did you meet with Dr. Varughese</p> <p>18 on September 20th?</p> <p>19 A September 20th, yes.</p> <p>20 Q How did that meeting come about?</p> <p>21 A It came about because Ms. Patel</p> <p>22 on the morning of the 20th had encountered Dr.</p> <p>23 Varughese at Starbucks and had arranged with</p> <p>24 Ms. Tiger Paillex to meet with her and me, that</p> <p>25 is the answer to your question.</p>	<p style="text-align: right;">Page 225</p> <p>1 LEENA VARUGHESE</p> <p>2 filled out.</p> <p>3 We also asked about wellness</p> <p>4 because we knew that Mr. Hughes from the</p> <p>5 wellness committee had been trying since the</p> <p>6 previous Friday to contact Dr. Varughese, and</p> <p>7 was unsuccessful and Dr. Varughese said that</p> <p>8 she found the wellness committee to be</p> <p>9 unhelpful in her previous interaction with</p> <p>10 them, that she had been trying to obtain a</p> <p>11 report from them that she never received and we</p> <p>12 or I told her that participation with the</p> <p>13 wellness committee was mandatory, and that a</p> <p>14 resident couldn't refuse to cooperate without</p> <p>15 facing possible disciplinary action.</p> <p>16 At which point she said that she</p> <p>17 would consider making an appointment with them</p> <p>18 at her convenience.</p> <p>19 Ms. Tiger Paillex and I found</p> <p>20 that answer to be unsatisfactory so we got</p> <p>21 wellness on the phone while we were there and</p> <p>22 arranged an appointment between Dr. Varughese</p> <p>23 and Dr. Hughes for that Thursday.</p> <p>24 We also asked her questions</p> <p>25 about and the incident that had happened less</p>

<p style="text-align: right;">Page 226</p> <p>1 LEENA VARUGHESE</p> <p>2 than an hour before in Ms. Patel's office.</p> <p>3 Dr. Varughese initially said she</p> <p>4 didn't want to say anything about the incident,</p> <p>5 but then had an explanation where her coffee</p> <p>6 was next to some documents and Ms. Patel</p> <p>7 misunderstood the situation.</p> <p>8 But then went into -- so Ms.</p> <p>9 Tiger Paillex then said you realize that Ms.</p> <p>10 Patel has confidential files in her office?</p> <p>11 And Dr. Varughese' response was</p> <p>12 if somebody has confidential files in their</p> <p>13 office, they shouldn't leave people unattended</p> <p>14 with them.</p> <p>15 And I mean that was pretty much</p> <p>16 the extent of the conversation.</p> <p>17 Q Do you remember at any time</p> <p>18 during that conversation she made reference to</p> <p>19 her intent to see a psychiatrist and what was</p> <p>20 the outcome of that intent?</p> <p>21 A By that point she had seen one</p> <p>22 physician and she had told us that that</p> <p>23 physician had denied to certify the leave.</p> <p>24 Declined to certify the leave.</p> <p>25 Q Were you involved in the</p>	<p style="text-align: right;">Page 228</p> <p>1 LEENA VARUGHESE</p> <p>2 with patients.</p> <p>3 Q Would you refer to Exhibit</p> <p>4 number 1; the Department's Exhibit 1.</p> <p>5 And briefly summarize what this</p> <p>6 represents -- you don't have to, it's there.</p> <p>7</p> <p>8 DR. WEINFELD: Thank you.</p> <p>9 Q Are the reasons for her</p> <p>10 termination set out in her letter?</p> <p>11 DR. WEINFELD: Let the record</p> <p>12 reflect that item number 1 in the</p> <p>13 Pathology Department's record indicates</p> <p>14 the summary suspension termination.</p> <p>15 A Everything that's here does</p> <p>16 support the termination.</p> <p>17 At a certain point, it doesn't</p> <p>18 go right up until the end of Dr. Varughese's</p> <p>19 service at Mount Sinai, but at a certain point</p> <p>20 the documentation in this letter had to stop in</p> <p>21 order for the termination to take place, so</p> <p>22 there may be some issues that happened after</p> <p>23 the time period covered in the letter, but I</p> <p>24 think what's here does represent an accurate</p> <p>25 record of the professionalism issues.</p>
<p style="text-align: right;">Page 227</p> <p>1 LEENA VARUGHESE</p> <p>2 decision to summarily suspend and terminate Dr.</p> <p>3 Varughese?</p> <p>4 A Yes.</p> <p>5 Q Why was she terminated?</p> <p>6 A I think in the period from the</p> <p>7 final warning to the termination there were</p> <p>8 several incidences that consistently</p> <p>9 demonstrated a failure to meet the professional</p> <p>10 standard, professionalism standards for</p> <p>11 residency.</p> <p>12 It also became apparent towards</p> <p>13 the very end that there was in my mind some</p> <p>14 danger to patients.</p> <p>15 Because Dr. Varughese had</p> <p>16 requested leave and it seemed as though there</p> <p>17 was something serious going on with her, the</p> <p>18 GME office and the Department really wanted to</p> <p>19 make sure that that serious condition was</p> <p>20 addressed.</p> <p>21 Dr. Varughese' failure to follow</p> <p>22 up on that really created a problem in that she</p> <p>23 was returning to work when we didn't feel that</p> <p>24 she was able to function as a resident.</p> <p>25 And that poses potential issues</p>	<p style="text-align: right;">Page 229</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. FIRPA: Thank you. No</p> <p>3 further questions.</p> <p>4 DR. WEINFELD: Dr. Varughese.</p> <p>5</p> <p>6 CROSS-EXAMINATION BY DR. VARUGHESE:</p> <p>7</p> <p>8 Q So, you were aware that I had</p> <p>9 already spoke to one of my physicians and they</p> <p>10 denied me the family medical leave of absence</p> <p>11 as of Tuesday morning?</p> <p>12 A Yes.</p> <p>13 Q And they deemed me fit to work,</p> <p>14 which means that they thought I didn't need the</p> <p>15 family medical leave of absence?</p> <p>16 DR. WEINFELD: We know what that</p> <p>17 means.</p> <p>18 DR. BRONHEIM: Did you provide a</p> <p>19 letter to that effect?</p> <p>20 DR. LEITER: Is there a document?</p> <p>21 DR. BRONHEIM: Do you have a</p> <p>22 document?</p> <p>23 DR. WEINFELD: So, you have</p> <p>24 documentation that you saw a physician.</p> <p>25 DR. BRONHEIM: Who made that</p>

<p style="text-align: right;">Page 230</p> <p>1 LEENA VARUGHESE</p> <p>2 statement?</p> <p>3 DR. VARUGHESE: I spoke to a</p> <p>4 physician who said she's not</p> <p>5 comfortable.</p> <p>6 DR. WEINFELD: Is this somebody</p> <p>7 you saw as a patient or somebody you</p> <p>8 spoke to?</p> <p>9 DR. VARUGHESE: Somebody I spoke</p> <p>10 to regarding what was happening.</p> <p>11 DR. WEINFELD: Okay, so go ahead,</p> <p>12 ask your question.</p> <p>13 A So, yes.</p> <p>14 Q So that afternoon I followed up</p> <p>15 with you and I said I saw my physician, do you</p> <p>16 remember me saying that to you?</p> <p>17 I saw the physician?</p> <p>18 A The second physician.</p> <p>19 Q Yes, I saw my physician I told</p> <p>20 you that?</p> <p>21 A Yes, who also declined to</p> <p>22 certify the leave of absence.</p> <p>23 Q Yes, who has declined to certify</p> <p>24 the leave of absence and thought that I should</p> <p>25 be at work.</p>	<p style="text-align: right;">Page 232</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. MARIN: It's a statement</p> <p>3 then, you don't have any evidence for</p> <p>4 it, is what I'm asking?</p> <p>5 DR. VARUGHESE: I don't and I</p> <p>6 never had an opportunity to give that</p> <p>7 document to the Department.</p> <p>8 Q So I want you to refer to</p> <p>9 Exhibit 26.</p> <p>10 DR. WEINFELD: In the big book.</p> <p>11 Okay.</p> <p>12 Q So my question is this, when</p> <p>13 were you aware that Dr. Firpa was -- when did</p> <p>14 Dr. Firpa tell you I'm not supposed to be at</p> <p>15 the hospital because I'm not well, what date?</p> <p>16 A It was the date of this e-mail,</p> <p>17 Thursday the 15th.</p> <p>18 Q Thursday the 15th.</p> <p>19 So, here is an e-mail that Dr.</p> <p>20 Firpa sent to me Thursday the 15th.</p> <p>21 The tone, the sentiment</p> <p>22 expressed in this e-mail is --</p> <p>23 DR. LEITER: What's the question?</p> <p>24 Q In this e-mail he doesn't -- he</p> <p>25 seems to, Dr. Firpa, seems to understand --</p>
<p style="text-align: right;">Page 231</p> <p>1 LEENA VARUGHESE</p> <p>2 A Yes.</p> <p>3 Q And this is a physician who has</p> <p>4 reviewed my medical history extensively, has</p> <p>5 known me for at least three plus years.</p> <p>6 DR. BRONHEIM: Wait a minute, he</p> <p>7 doesn't know that.</p> <p>8 Have you provided evidence?</p> <p>9 DR. VARUGHESE: I am telling you</p> <p>10 there is a person who knows me for over</p> <p>11 3 years.</p> <p>12 DR. MARIN: For clarification, is</p> <p>13 the documentation about that physician</p> <p>14 in your statement, one of your points in</p> <p>15 here?</p> <p>16 DR. VARUGHESE: Well, he didn't</p> <p>17 fill the form, but I have a letter</p> <p>18 saying that I saw him that day.</p> <p>19 DR. MARIN: Is that in here so we</p> <p>20 can review it?</p> <p>21 DR. VARUGHESE: No, it's not in</p> <p>22 there.</p> <p>23 I mean it's something I would have</p> <p>24 given to the Department.</p> <p>25 DR. WEINFELD: Go ahead.</p>	<p style="text-align: right;">Page 233</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. MARIN: This is something you</p> <p>3 would have to address with Dr. Firpa.</p> <p>4 You have a different witness on the</p> <p>5 stand, so your question should be</p> <p>6 pertaining to him.</p> <p>7 Q Right, so I sent Mr. Johnson an</p> <p>8 e-mail on the 20th because I wasn't sure why --</p> <p>9 DR. MARIN: Dr. Varughese, it's a</p> <p>10 back to the question concept.</p> <p>11 The way it works is you ask him a</p> <p>12 question and he responds to it, this is</p> <p>13 not the forum for you to explain text</p> <p>14 inside of your --</p> <p>15 DR. LEITER: If you have no</p> <p>16 questions for him, perhaps you want to</p> <p>17 move on so you can present your case.</p> <p>18 Q So according to the</p> <p>19 institutional policy Dr. Firpa is the director</p> <p>20 of educational activities, what authority does</p> <p>21 he have to tell me that I should not come to</p> <p>22 work?</p> <p>23 He's not a program director,</p> <p>24 what is his role in that?</p> <p>25 A I mean to go back to the e-mail</p>

<p style="text-align: right;">Page 234</p> <p>1 LEENA VARUGHESE</p> <p>2 that we looked at just a few minutes ago, both</p> <p>3 Dr. Firpa and Dr. Lento have responsibilities</p> <p>4 relating to the residency program.</p> <p>5 One is officially called a</p> <p>6 program director, whether we are dealing with</p> <p>7 the ACGME, but that doesn't mean that that is</p> <p>8 the sole person who has any authority over</p> <p>9 residency training at the institution.</p> <p>10 DR. WEINFELD: So, the answer is</p> <p>11 that Dr. Firpa does have that authority?</p> <p>12 THE WITNESS: Yeah, we consider</p> <p>13 him to be in the program leadership.</p> <p>14 DR. WEINFELD: That was the</p> <p>15 question, okay.</p> <p>16 Q In terms of the policies that</p> <p>17 the Department has instituted as of August</p> <p>18 15th, I believe, that was, is that the date</p> <p>19 that we are -- it was supposed to be</p> <p>20 instituted?</p> <p>21 A It's not a policy.</p> <p>22 Q I'm talking about the new</p> <p>23 departmental policies.</p> <p>24 A I can't really speak to that.</p> <p>25 DR. WEINFELD: She's referring to</p>	<p style="text-align: right;">Page 236</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. WEINFELD: Can we strike this</p> <p>3 because there is no question.</p> <p>4 You have to go somewhere with this.</p> <p>5 DR. CORDONE-CARDO: As the Chair</p> <p>6 I presented in many occasions the line</p> <p>7 of reporting and everybody knew and I</p> <p>8 had various special meetings with all of</p> <p>9 the residents about the roles of Dr.</p> <p>10 Firpa.</p> <p>11 That was very clear to everybody.</p> <p>12 DR. WEINFELD: Is the question,</p> <p>13 Dr. Varughese, maybe I can clarify this,</p> <p>14 is your question who makes Department</p> <p>15 policy, is that what you are trying to</p> <p>16 ask?</p> <p>17 DR. VARUGHESE: Yeah, I'm asking</p> <p>18 Mr. Johnson, yes.</p> <p>19 DR. MARIN: That's not a question</p> <p>20 for him.</p> <p>21 DR. WEINFELD: I don't know</p> <p>22 that's a question, but I think it was</p> <p>23 answered.</p> <p>24 DR. VARUGHESE: Okay.</p> <p>25 Q Are you aware that Dr. Firpa</p>
<p style="text-align: right;">Page 235</p> <p>1 LEENA VARUGHESE</p> <p>2 item 17 in the small book.</p> <p>3 DR. BRONHEIM: I don't think you</p> <p>4 know that.</p> <p>5 DR. WEINFELD: So what's your</p> <p>6 question.</p> <p>7 DR. MARIN: It's not relevant to</p> <p>8 him.</p> <p>9 Q So, according to the</p> <p>10 institution's policy, I mean who -- did the GME</p> <p>11 make up these policies? Would made these</p> <p>12 policies?</p> <p>13 How were these, not -- I</p> <p>14 understand the ACGME came here and inspected</p> <p>15 you have to take some action to correct that,</p> <p>16 but --</p> <p>17 DR. WEINFELD: Ask the question.</p> <p>18 Q Who can -- how does this policy,</p> <p>19 I thought according to the hospital's house</p> <p>20 staff policy manual it's the Chairman who has</p> <p>21 to --</p> <p>22 DR. WEINFELD: What's your</p> <p>23 question?</p> <p>24 DR. VARUGHESE: Is it even like</p> <p>25 that the residents have to --</p>	<p style="text-align: right;">Page 237</p> <p>1 LEENA VARUGHESE</p> <p>2 indicated to me that he was a program director</p> <p>3 at some point?</p> <p>4 A I was no the aware of that.</p> <p>5 DR. WEINFELD: Any other</p> <p>6 questions for Mr. Johnson?</p> <p>7 Q Yes.</p> <p>8 You said that you referred me to</p> <p>9 the physician wellness committee on what,</p> <p>10 Friday?</p> <p>11 A On that Friday I asked Dr.</p> <p>12 Hughes to contact you.</p> <p>13 Q Why did you ask Dr. Hughes to</p> <p>14 contact me?</p> <p>15 A Because the previous day the</p> <p>16 program informed us that you could have a</p> <p>17 serious medical condition that would warrant an</p> <p>18 assessment by physician wellness.</p> <p>19 Q So the Department asked you to</p> <p>20 contact --</p> <p>21 A No.</p> <p>22 DR. VARUGHESE: All right, thank</p> <p>23 you.</p> <p>24 DR. WEINFELD: Thank you, very</p> <p>25 much.</p>

<p style="text-align: right;">Page 238</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. WEINFELD: Is the Department</p> <p>3 done?</p> <p>4 DR. FIRPA: Two more witnesses.</p> <p>5</p> <p>6 ARTHUR FIGUR, called as a</p> <p>7 witness, having been first duly sworn by</p> <p>8 the Notary Public, was examined and</p> <p>9 testified as follows:</p> <p>10</p> <p>11 DIRECT EXAMINATION BY DR. FIRPA:</p> <p>12</p> <p>13 MR. MacDONALD: Let's proceed.</p> <p>14 Q Who is your employer,</p> <p>15 Dr. Figure?</p> <p>16 A The Mount Sinai Center Hospital.</p> <p>17 Q What is your job title?</p> <p>18 A I am the Associate Medical</p> <p>19 Director of the Mount Sinai Hospital.</p> <p>20 Q What are your job duties in that</p> <p>21 capacity?</p> <p>22 A Multiple, I do investigations of</p> <p>23 certain kinds of quality improvement, quality</p> <p>24 issues, I also Chair the investigative arm of</p> <p>25 the physicians wellness committee.</p>	<p style="text-align: right;">Page 240</p> <p>1 LEENA VARUGHESE</p> <p>2 When it's drug abuse issue, then</p> <p>3 they are automatically suspended and referred</p> <p>4 to CPH of the medical society for treatment.</p> <p>5 Q When was Dr. Varughese' first</p> <p>6 referred to the Committee?</p> <p>7 A I think she was first referred</p> <p>8 in January of this year.</p> <p>9 Q Why was she referred to the</p> <p>10 committee?</p> <p>11 A Dr. Pessan called me to say that</p> <p>12 she had -- Dr. Pessan became the interim Chair</p> <p>13 of the Department of Pathology and she referred</p> <p>14 Dr. Varughese to us because one, she was</p> <p>15 insubordinate to Dr. Pessan, two she had an</p> <p>16 altercation with one of the Chief Residents,</p> <p>17 that she was often late for working and that</p> <p>18 she harassed other residents.</p> <p>19 And those were the reasons she</p> <p>20 gave.</p> <p>21 Q Did you recall her ever</p> <p>22 resisting going to see psychiatrists?</p> <p>23 A Okay, well, before we get to</p> <p>24 that, we went up to the Department to see what</p> <p>25 was in her folder as far as attending notes and</p>
<p style="text-align: right;">Page 239</p> <p>1 LEENA VARUGHESE</p> <p>2 I sit on a variety of quality</p> <p>3 assurance committees, I try and get Chief</p> <p>4 Residents to participate in the various</p> <p>5 committees of the hospital.</p> <p>6 I still go to some of the</p> <p>7 meetings of the division of hematology because</p> <p>8 that's where I was before getting the</p> <p>9 administrative work.</p> <p>10 Q What is your role in the</p> <p>11 physician wellness committee?</p> <p>12 A When physicians are referred to</p> <p>13 us for evaluation, we try and interview as many</p> <p>14 people who have had firsthand experience with</p> <p>15 the physician so we can understand the issues,</p> <p>16 we then interview the physician to get his or</p> <p>17 her side of the story and the reason for the</p> <p>18 referral.</p> <p>19 We obtain toxicology screens,</p> <p>20 it's almost mandatory, we may refer out for</p> <p>21 outside evaluations, whether it's a vision</p> <p>22 problem to an ophthalmologist, if we feel it's</p> <p>23 behavioral issues or professional issues we</p> <p>24 refer them out for evaluation by a</p> <p>25 psychiatrist.</p>	<p style="text-align: right;">Page 241</p> <p>1 LEENA VARUGHESE</p> <p>2 so on about the behavior, we did find e-mails</p> <p>3 but at the time there were other issues in the</p> <p>4 Department, they were GME issues, Dr. Schiller</p> <p>5 had retired, they were searching for a new</p> <p>6 Chair.</p> <p>7 So to try and find the</p> <p>8 documentation backing up that she needed</p> <p>9 physician wellness rather than discipline for</p> <p>10 being insubordinate to a Chair, I made the</p> <p>11 decision in my other hat as Associate Medical</p> <p>12 Director to interview people along with Paul</p> <p>13 Johnson to see first of all would it be</p> <p>14 warranted, and if so, then we would say she</p> <p>15 should come to us, and we agreed that the</p> <p>16 referral was indicated and then it took a long</p> <p>17 time to convince her to come to a meeting</p> <p>18 between Dr. Hughes, Leena and myself.</p> <p>19 Q What about the referral to the</p> <p>20 physician wellness committee in September of</p> <p>21 this year?</p> <p>22 A I was away in September, Dr.</p> <p>23 Hughes did call me to say that Leena had called</p> <p>24 him because she needed a physician who could</p> <p>25 give her backup that she needed a leave of</p>

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<p style="text-align: right;">Page 242</p> <p>1 LEENA VARUGHESE</p> <p>2 absence because of illness.</p> <p>3 That's all he was able to tell</p> <p>4 me and he informed her that's not the function</p> <p>5 of the physician wellness.</p> <p>6 Our function is if we feel there</p> <p>7 is an issue that needs to be addressed, that we</p> <p>8 report people to the appropriate therapists for</p> <p>9 therapy, but we don't refer to mandate or to</p> <p>10 confirm that somebody needed a leave of</p> <p>11 absence.</p> <p>12 Q Was there anything else that the</p> <p>13 wellness committee could have done or other</p> <p>14 remediation measures the Committee could have</p> <p>15 taken to help Dr. Varughese?</p> <p>16 A Yes, but at this point when Dr.</p> <p>17 Cordone-Cardo and you came in we had a meeting</p> <p>18 in your office where I did voice that based on</p> <p>19 our handling of the situation earlier that</p> <p>20 really the next more appropriate step would be</p> <p>21 an increase in disciplinary action.</p> <p>22 You guys felt, appropriately,</p> <p>23 that you were new, you wanted to give her every</p> <p>24 opportunity to succeed and to finish the</p> <p>25 program, and that you would start a fresh as</p>	<p style="text-align: right;">Page 244</p> <p>1 LEENA VARUGHESE</p> <p>2 I'm always concerned about self-medicating by</p> <p>3 physicians.</p> <p>4 And we felt if I confronted her</p> <p>5 with that, plus having to sign the contract</p> <p>6 which we normally have physicians sign, that</p> <p>7 would negate everything you people were doing,</p> <p>8 and I sort of washed my hands of it and hoped</p> <p>9 that you were able to succeed.</p> <p>10 DR. BRONHEIM: When was this, Dr.</p> <p>11 Figur?</p> <p>12 THE WITNESS: I don't know when</p> <p>13 our meeting was, but shortly after they</p> <p>14 arrived, so whether it was September,</p> <p>15 the exact date I can't remember.</p> <p>16 Q Do you remember as we continued</p> <p>17 on that strategy and time moved on and things</p> <p>18 got really worse and worse, about September we</p> <p>19 consulted with you or we shared with you our</p> <p>20 concerns and our decision about possibly</p> <p>21 terminating her, did you feel at that time that</p> <p>22 there was any -- something else that could have</p> <p>23 been done to help her in any way?</p> <p>24 A My -- our feeling at the</p> <p>25 Committee was that we have tried everything we</p>
<p style="text-align: right;">Page 243</p> <p>1 LEENA VARUGHESE</p> <p>2 new persons, not related to any other</p> <p>3 experiences she might have had in the past and</p> <p>4 would be willing to start again.</p> <p>5 So, when Dr. Hughes and I</p> <p>6 discussed this, knowing that she resented</p> <p>7 authority, that she would resent referral to a</p> <p>8 therapist, that she would resent having</p> <p>9 toxicology screens which we deemed were</p> <p>10 necessary because her behavior was</p> <p>11 unpredictable, she would be late, she would not</p> <p>12 finish her work, so to me those were signs of</p> <p>13 possible impairment.</p> <p>14 The toxicology screen that she</p> <p>15 had at the original meeting with us was</p> <p>16 negative, but she wanted to drink an excessive</p> <p>17 amount of water.</p> <p>18 When I told her no, I took her</p> <p>19 over and the nurse at employees health would</p> <p>20 also refuse to give her more water and she</p> <p>21 admitted that she is on medications, Ambien and</p> <p>22 dexadryl and possibly Aderol, I would then be</p> <p>23 very concerned and would mandate that she give</p> <p>24 us a prescription from her current treating</p> <p>25 people who gave her these medications because</p>	<p style="text-align: right;">Page 245</p> <p>1 LEENA VARUGHESE</p> <p>2 could do to help her and that if you are</p> <p>3 terminating her it's very hard for us to sign</p> <p>4 an agreement because she'll no longer be here,</p> <p>5 that she needs to follow the directions of the</p> <p>6 the Committee, sign HIPPA consent that we can</p> <p>7 contact the treating therapist and the</p> <p>8 therapist would have been somebody, an expert</p> <p>9 in anger management, unless we found that drugs</p> <p>10 became an issue, and based on her lack of</p> <p>11 cooperation in the past, there was no need for</p> <p>12 us to proceed.</p> <p>13 DR. FIRPA: Thank you, I have no</p> <p>14 further questions.</p> <p>15 DR. WEINFELD: Dr. Varughese.</p> <p>16</p> <p>17 CROSS-EXAMINATION BY DR. VARUGHESE:</p> <p>18</p> <p>19 Q You mentioned that you met with</p> <p>20 Dr. Cordone-Cardo when you first arrived at the</p> <p>21 hospital?</p> <p>22 A Yes. Well, not when he first</p> <p>23 arrived, at a meeting when you were brought up</p> <p>24 for discussion.</p> <p>25 Q So when was that?</p>

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<p style="text-align: right;">Page 246</p> <p>1 LEENA VARUGHESE</p> <p>2 A I can't recall the date.</p> <p>3 Q I feel like that's relevant, was</p> <p>4 it in May, was it in April?</p> <p>5 A No, no, they weren't here.</p> <p>6 DR. MARIN: He says he doesn't</p> <p>7 recall the date. That's the answer.</p> <p>8 A I don't recall the date, it was</p> <p>9 after their arrival. Maybe a month after their</p> <p>10 arrival when they became educational director</p> <p>11 and Chairman of the Department.</p> <p>12 Q So it was with both Dr. Firpa</p> <p>13 and with Dr. Cordone-Cardo?</p> <p>14 A They were both in the room, yes.</p> <p>15 Q So that was probably you started</p> <p>16 on -- may I address Dr. Firpa at this point?</p> <p>17 DR. MARIN: Your questions are to</p> <p>18 Dr. FigurYou arrived on July 1st?</p> <p>19 DR. FIRPA: Yes.</p> <p>20 DR. WEINFELD: What's the</p> <p>21 question?</p> <p>22 DR. BRONHEIM: The questions are</p> <p>23 to Dr. Figur.</p> <p>24 Q So my questions are to Dr. Figur</p> <p>25 now.</p>	<p style="text-align: right;">Page 248</p> <p>1 LEENA VARUGHESE</p> <p>2 Q So you were no longer involved</p> <p>3 after that meeting.</p> <p>4 Well, I just want to inform you</p> <p>5 on July 15th Dr. Cordone-Cardo --</p> <p>6 DR. MARIN: Dr. Varughese, this</p> <p>7 is not the time to inform, your job is</p> <p>8 to ask the question.</p> <p>9 DR. VARUGHESE: They gave me a</p> <p>10 disciplinary final warning letter.</p> <p>11 DR. MARIN: Ask questions.</p> <p>12 Q So, are you aware that I met</p> <p>13 with Dr. Cordone-Cardo, Dr. Lento and Mr.</p> <p>14 Castaldi on May 4th?</p> <p>15 A No.</p> <p>16 Q Well, they insisted I write a</p> <p>17 new reflection on May 4th.</p> <p>18 DR. MARIN: Go back to what I</p> <p>19 just said to you, questions.</p> <p>20 He said no; next question.</p> <p>21 DR. VARUGHESE: Okay, sir, all</p> <p>22 right.</p> <p>23 A I heard, if you are asking that,</p> <p>24 I heard after the fact that yes, they felt you</p> <p>25 did not respond to the academic advisement and</p>
<p style="text-align: right;">Page 247</p> <p>1 LEENA VARUGHESE</p> <p>2 And so you advised there should</p> <p>3 be more disciplinary action?</p> <p>4 A Yes.</p> <p>5 Q As opposed to --</p> <p>6 A Yes. They didn't take my</p> <p>7 advice.</p> <p>8 Q They didn't take your advice?</p> <p>9 A No, they gave you another</p> <p>10 chance.</p> <p>11 They wanted to start fresh, they</p> <p>12 told you they would start fresh, they would</p> <p>13 start with you from the beginning and --</p> <p>14 Q Well, what would you consider</p> <p>15 starting fresh?</p> <p>16 Would you consider me being</p> <p>17 placed on disciplinary action starting fresh?</p> <p>18 A I'm not aware of any of the</p> <p>19 disciplinary actions they took, I'm aware of</p> <p>20 the academic advisement that you got earlier,</p> <p>21 but after they arrived and they made the</p> <p>22 decision that they were going to start fresh,</p> <p>23 they were going to give you the chance to start</p> <p>24 anew, wipe out the past slate, I was no longer</p> <p>25 involved.</p>	<p style="text-align: right;">Page 249</p> <p>1 LEENA VARUGHESE</p> <p>2 that they asked you to rewrite your reflection</p> <p>3 after reading a certain book, which I don't</p> <p>4 know what it was, and you didn't fulfill that</p> <p>5 academic advisement.</p> <p>6 Q So, Dr. Pessan who was part of</p> <p>7 the Department reached out to you?</p> <p>8 A Yes. When she was acting Chair.</p> <p>9 Q When was she acting Chair, in</p> <p>10 January?</p> <p>11 A I think in January.</p> <p>12 Q But you were aware there was a</p> <p>13 back story to why she may have asked you?</p> <p>14 A I sort of outlined the five</p> <p>15 reasons, you were insubordinate to her, which</p> <p>16 in my opinion is really not a physician</p> <p>17 wellness issue, which is really a disciplinary</p> <p>18 issue and should be handled immediately by the</p> <p>19 Chair, because as an interim Chair I presume</p> <p>20 she felt she didn't want to do it, but then</p> <p>21 there were other issues about your lateness,</p> <p>22 your not being a team player, your not</p> <p>23 cooperating with the other residents, your</p> <p>24 harassing them and you have been demeaning a</p> <p>25 variety of the staff in the Pathology</p>

<p style="text-align: right;">Page 250</p> <p>1 LEENA VARUGHESE</p> <p>2 Department, and that's a physician wellness</p> <p>3 issue.</p> <p>4 Q How did she say that I was</p> <p>5 insubordinate?</p> <p>6 A I didn't ask.</p> <p>7 Q How many altercations did she</p> <p>8 say there were?</p> <p>9 A There was one altercation.</p> <p>10 Q And she said that I was</p> <p>11 responsible?</p> <p>12 A She said -- she said there was</p> <p>13 an altercation, she didn't put the blame</p> <p>14 anywhere, there was no specific write up and</p> <p>15 that was one of the reasons Mr. Johnson and I</p> <p>16 interviewed members of the Department, so we</p> <p>17 could figure out did it occur, how did it</p> <p>18 occur, what started it, and who could have been</p> <p>19 responsible.</p> <p>20 Q How often was I late?</p> <p>21 DR. WEINFELD: It's not a</p> <p>22 question for Dr. Figur.</p> <p>23 A I didn't ask.</p> <p>24 DR. WEINFELD: He wasn't asked to</p> <p>25 keep track of your lateness.</p>	<p style="text-align: right;">Page 252</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. MARIN: Let's get back to the</p> <p>3 questions.</p> <p>4 Q What did you -- what was your</p> <p>5 opinion of that?</p> <p>6 A Well, there was no problem and</p> <p>7 Dr. Lento told me you would be unable to come</p> <p>8 because you were at another rotation, and that</p> <p>9 when you were available to come and be here</p> <p>10 that then you would appear.</p> <p>11 Q Right so this is a physician</p> <p>12 wellness committee issue, it's supposed to be a</p> <p>13 confidential issue, but you are telling --</p> <p>14 A No, your program director would</p> <p>15 know about this because the Chairman is the one</p> <p>16 who referred you, and certainly the program</p> <p>17 director needs to know what's going on with</p> <p>18 residents in the program.</p> <p>19 Q Right, after an interview if</p> <p>20 there was an issue that they needed to address</p> <p>21 or --</p> <p>22 A No, you were referred to us, you</p> <p>23 did not come. I had to be blunt with you</p> <p>24 because based on all the other interviews we</p> <p>25 have had with other people before I reached out</p>
<p style="text-align: right;">Page 251</p> <p>1 LEENA VARUGHESE</p> <p>2 Q So, you said you were contacted</p> <p>3 in January but you did not contact me until?</p> <p>4 A The policy of the Committee, as</p> <p>5 I outlined, is to get firsthand information,</p> <p>6 not second or thirdhand information from people</p> <p>7 who have had experience with the physician's</p> <p>8 behavior so that we don't get filtered</p> <p>9 information.</p> <p>10 So it takes a while to gather</p> <p>11 that data and once we were ready with that</p> <p>12 information, it took a while to get to you come</p> <p>13 to meet with us.</p> <p>14 Q So you basically e-mailed me --</p> <p>15 my Exhibit 40 in the big book.</p> <p>16 DR. WEINFELD: Exhibit 40 in the</p> <p>17 big book.</p> <p>18 Q So you e-mailed me on February</p> <p>19 28th and --</p> <p>20 DR. WEINFELD: Is there a</p> <p>21 question?</p> <p>22 Q And said that physician wellness</p> <p>23 would -- but, in fact Dr. Lento responded for</p> <p>24 me as opposed to me actually responding to this</p> <p>25 particular request saying that I wasn't --</p>	<p style="text-align: right;">Page 253</p> <p>1 LEENA VARUGHESE</p> <p>2 to you, was that you needed to be very blunt</p> <p>3 with Leena, otherwise she's not going to hear</p> <p>4 you.</p> <p>5 So I was very blunt to make</p> <p>6 certain that you understood that if you don't</p> <p>7 come you can be suspended and you can be</p> <p>8 terminated, and that's in the procedures and</p> <p>9 policies approved by the Medical Board which</p> <p>10 you can find online.</p> <p>11 So I didn't want you to say to</p> <p>12 me you never told me the outcome if I don't</p> <p>13 show up.</p> <p>14 Q So, anyway I met with you and</p> <p>15 Dr. Hughes several times and eventually you</p> <p>16 asked that I take the toxicology screening</p> <p>17 test.</p> <p>18 A Right.</p> <p>19 Q So I took the test, did I try</p> <p>20 not to take the test?</p> <p>21 DR. WEINFELD: What was the</p> <p>22 question?</p> <p>23 Q I mean I took the test, it was</p> <p>24 negative, was it?</p> <p>25 A Yes, the test was negative.</p>

<p style="text-align: right;">Page 254</p> <p>1 LEENA VARUGHESE</p> <p>2 Q Okay, good.</p> <p>3 A But as I said before, there were</p> <p>4 issues before you took the test.</p> <p>5 DR. WEINFELD: We heard.</p> <p>6 DR. LEITER: Is that all?</p> <p>7 DR. VARUGHESE: No.</p> <p>8 Q So, you wanted me to meet with</p> <p>9 Dr. Fursch eventually?</p> <p>10 A Yes.</p> <p>11 Q But I had requested that I could</p> <p>12 follow up with my therapist?</p> <p>13 A Yes we wanted an independent</p> <p>14 opinion, which you thought was your therapist.</p> <p>15 Q Or I said somebody at the</p> <p>16 Medical Center of New York?</p> <p>17 A Yes.</p> <p>18 Q That was my other option?</p> <p>19 A Right.</p> <p>20 Q But I wasn't given that option?</p> <p>21 A No, you were not given that</p> <p>22 option because at our discretion it needed to</p> <p>23 be someone from here based on the performance</p> <p>24 issues in the past.</p> <p>25 Q Do you recall telling me that</p>	<p style="text-align: right;">Page 256</p> <p>1 LEENA VARUGHESE</p> <p>2 that.</p> <p>3 But at this point in the</p> <p>4 proceedings we can't mandate whom you should go</p> <p>5 to and so from my point of view, it's moot.</p> <p>6 Now, if you do go to a therapist</p> <p>7 I will be happy to let that therapist know</p> <p>8 exactly some of the issues that came up in the</p> <p>9 workplace that you need to address to be</p> <p>10 successful in the future, and that's our</p> <p>11 concern, your future.</p> <p>12 And protecting the patients.</p> <p>13 Q So far we have discussed</p> <p>14 professionalism as being the issue here.</p> <p>15 What do you mean protect the</p> <p>16 patients?</p> <p>17 A Mount Sinai is fortunate that in</p> <p>18 the Department of Pathology although the</p> <p>19 residents do the grossing and have a great</p> <p>20 responsibility of cutting margins on specimens,</p> <p>21 that the attending is the final arbiter of what</p> <p>22 report goes out and when.</p> <p>23 So if you don't do your work</p> <p>24 diligently and you don't do a proper margin cut</p> <p>25 on a breast specimen, or any place else, we can</p>
<p style="text-align: right;">Page 255</p> <p>1 LEENA VARUGHESE</p> <p>2 you will give me a document?</p> <p>3 A I don't recall, but as I say, I</p> <p>4 don't recall, we do have a communication from</p> <p>5 Dr. Fursch which is not here because it was</p> <p>6 confidential to the Committee and it should</p> <p>7 remain confidential with the Committee.</p> <p>8 Once we decided that we are not</p> <p>9 going to have you sign a contract and refer you</p> <p>10 out and monitor you periodically, the</p> <p>11 recommendations that we got became moot because</p> <p>12 we weren't going to follow them.</p> <p>13 Q Don't you think it's odd that</p> <p>14 I'm going to see this therapist for physician</p> <p>15 wellness committee and she won't give me any</p> <p>16 follow-up summary?</p> <p>17 A I didn't know you were going to</p> <p>18 see any therapist.</p> <p>19 Q And I'm not followed up with</p> <p>20 that particular --</p> <p>21 A I have no objection after the</p> <p>22 disciplinary action is fulfilled, if Dr. Fursch</p> <p>23 has no objection, of telling you what her</p> <p>24 recommendations were.</p> <p>25 And I agree, you need to know</p>	<p style="text-align: right;">Page 257</p> <p>1 LEENA VARUGHESE</p> <p>2 send out a wrong report.</p> <p>3 That became an issue.</p> <p>4 Yes, the attending will read the</p> <p>5 slides that are available, but the attending is</p> <p>6 not there to watch every time a resident cuts</p> <p>7 the slides.</p> <p>8 And the information we got is</p> <p>9 some days you were perfect and you did</p> <p>10 extremely well and without rhyme or reason the</p> <p>11 next time they came around you had no idea what</p> <p>12 you were doing and had to ask the same</p> <p>13 questions of the same people who had just gone</p> <p>14 through this material with you a week ago, and</p> <p>15 it's like starting in the beginning.</p> <p>16 And that's what I mean by</p> <p>17 protecting our patients.</p> <p>18 And that was one of the reasons</p> <p>19 we needed the toxicology screen, that when you</p> <p>20 were educated to something you couldn't retain</p> <p>21 it.</p> <p>22 Not my opinion, those were the</p> <p>23 opinions of people we interviewed.</p> <p>24 DR. MARIN: Questions.</p> <p>25 DR. VARUGHESE: For the record,</p>

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<p style="text-align: right;">Page 258</p> <p>1 LEENA VARUGHESE</p> <p>2 that's not true.</p> <p>3 DR. WEINFELD: A question, a</p> <p>4 question.</p> <p>5 Q It seems that you have been</p> <p>6 misled.</p> <p>7 DR. WEINFELD: Do you have any</p> <p>8 further questions before I excuse him?</p> <p>9 DR. VARUGHESE: No.</p> <p>10 DR. WEINFELD: Do you have any</p> <p>11 further questions, not commentary,</p> <p>12 questions?</p> <p>13 Q In our interactions, what's your</p> <p>14 opinion, am I -- do I need anger management</p> <p>15 or --</p> <p>16 A Based on the interviews of other</p> <p>17 people, yes.</p> <p>18 Q Well --</p> <p>19 A You were never angry with me,</p> <p>20 except for being reluctant to come and needing</p> <p>21 a lot of urging and what you would consider</p> <p>22 threatening, what I considered informational,</p> <p>23 no, you've never been anything but courteous</p> <p>24 with us.</p> <p>25 DR. VARUGHESE: All right, so one</p>	<p style="text-align: right;">Page 260</p> <p>1 LEENA VARUGHESE</p> <p>2 e-mailed you, please keep that appointment.</p> <p>3 I think you may then have said</p> <p>4 something about your grandfather dying, it may</p> <p>5 be in your e-mail trail, I certainly don't have</p> <p>6 that.</p> <p>7 Q But I wasn't advised to take a</p> <p>8 day off.</p> <p>9 DR. WEINFELD: Thank you, Dr.</p> <p>10 Figur, you are excused.</p> <p>11 Thanks very much.</p> <p>12 MR. MacDONALD: Is that the last</p> <p>13 witness?</p> <p>14 DR. FIRPA: One more.</p> <p>15</p> <p>16 CARLOS CORDON-CARDO,</p> <p>17 called as a witness, having been first</p> <p>18 duly sworn by the Notary Public, was</p> <p>19 examined and testified as follows.</p> <p>20</p> <p>21 EXAMINATION BY DR. FIRPA:</p> <p>22</p> <p>23 Q Good evening, Dr. Cordone-Cardo.</p> <p>24 Who is your employer?</p> <p>25 A Mount Sinai School of Medicine.</p>
<p style="text-align: right;">Page 259</p> <p>1 LEENA VARUGHESE</p> <p>2 more thing.</p> <p>3 Q With Dr. Fursch, I had been a</p> <p>4 little resistant to going to that particular</p> <p>5 meeting.</p> <p>6 A Yes.</p> <p>7 Q But I did inform you my</p> <p>8 grandfather had just passed away that week?</p> <p>9 A Right.</p> <p>10 DR. WEINFELD: Is there a</p> <p>11 question for Dr. Figur?</p> <p>12 Q Are you aware there is a</p> <p>13 hospital policy where you can take up to three</p> <p>14 condolence days?</p> <p>15 DR. WEINFELD: Who was it?</p> <p>16 DR. VARUGHESE: My grandfather?</p> <p>17 A That's not my area of expertise,</p> <p>18 I am not aware of it.</p> <p>19 DR. WEINFELD: Ask him a hospital</p> <p>20 policy question, that's not for Dr.</p> <p>21 Figur.</p> <p>22 Q You requested that I go despite</p> <p>23 the fact --</p> <p>24 A You had an appointment which you</p> <p>25 canceled. Dr. Fursch notified me, so I</p>	<p style="text-align: right;">Page 261</p> <p>1 LEENA VARUGHESE</p> <p>2 Q What is your job title?</p> <p>3 A I am the Chair of Pathology.</p> <p>4 Q What are your duties as Chair of</p> <p>5 Pathology?</p> <p>6 A I am to oversight both the</p> <p>7 service, educational and research operations of</p> <p>8 the Department.</p> <p>9 Q When did you become Chair of</p> <p>10 Mount Sinai?</p> <p>11 A April 1st.</p> <p>12 Q When did you first meet with Dr.</p> <p>13 Varughese?</p> <p>14 A I met first with Dr. Varughese</p> <p>15 on May 3rd.</p> <p>16 Q What happened at that meeting?</p> <p>17 A I was informed as I arrived</p> <p>18 after talking to our leadership that there were</p> <p>19 some issues with Dr. Varughese including a</p> <p>20 meeting on April 26th describing the lack of</p> <p>21 responses to repetitive e-mails from several of</p> <p>22 the faculties.</p> <p>23 So as a new Chair I wanted to</p> <p>24 address that immediately and I wanted to make</p> <p>25 sure that Dr. Varughese also had the chance to</p>

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<p style="text-align: right;">Page 262</p> <p>1 LEENA VARUGHESE</p> <p>2 meet with me much before I met with some of the</p> <p>3 faculty.</p> <p>4 Q Did you discuss with her</p> <p>5 anything regarding her academic advisement?</p> <p>6 A I did. I went over the past</p> <p>7 academic advisement.</p> <p>8 I realized that she was asked in</p> <p>9 December to put forward a statement on events</p> <p>10 on professionalism, that she was supposed to</p> <p>11 hand in a matter of four weeks upon agreement</p> <p>12 of herself with the Committee.</p> <p>13 That report was not submitted</p> <p>14 until March 30th, two days before my arrival</p> <p>15 and some three months later of what she was</p> <p>16 required.</p> <p>17 So I wanted to understand why,</p> <p>18 but at the same time I wanted to give Dr.</p> <p>19 Varughese the chance to meet me, give Dr.</p> <p>20 Varughese the chance of starting fresh and</p> <p>21 making very clear that what has happened in the</p> <p>22 Department in the past was not going to happen</p> <p>23 now.</p> <p>24 We strive for integrity, we</p> <p>25 strive to not disruption of operations, we</p>	<p style="text-align: right;">Page 264</p> <p>1 LEENA VARUGHESE</p> <p>2 And she said I need a couple of</p> <p>3 weeks, a month.</p> <p>4 Do you have the copy of the</p> <p>5 book?</p> <p>6 No, we will buy the copy of the</p> <p>7 book. I am going find out and this is how we</p> <p>8 started on that first meeting.</p> <p>9 Q What happened in the follow-up</p> <p>10 meeting to that initial agreement?</p> <p>11 A Well, we met on May 24th because</p> <p>12 nothing was being submitted, I wasn't sure if</p> <p>13 the report was being prepared.</p> <p>14 I didn't want the same report of</p> <p>15 the past which is at the end of day what we</p> <p>16 received, and I wanted to make sure that she</p> <p>17 had access also to the book, at which point I</p> <p>18 asked together with Dr. Lento do you recall the</p> <p>19 author of the book?</p> <p>20 Which Dr. Varughese said that</p> <p>21 she didn't recall that the book has been</p> <p>22 written by Stephen Pisan on practice excellence</p> <p>23 and it's a manual of how to conduct business in</p> <p>24 our business.</p> <p>25 So we advised her that this was</p>
<p style="text-align: right;">Page 263</p> <p>1 LEENA VARUGHESE</p> <p>2 strive to professionalism, I also asked Dr.</p> <p>3 Varughese to make sure that she had a copy of</p> <p>4 the book that she was recommended, if not the</p> <p>5 Department would buy that book and I tried to</p> <p>6 start a new relationship and at that meeting we</p> <p>7 did meet with the person who was at that time</p> <p>8 the acting administrator, Mr. Castaldi.</p> <p>9 The interview was not easy, she</p> <p>10 was quite rude, she never offered an</p> <p>11 explanation for why she delayed three months</p> <p>12 and why all of a sudden a day before I started</p> <p>13 the report appears, which wasn't the report</p> <p>14 that was asked for, it was essentially a</p> <p>15 recount of what has happened.</p> <p>16 I said to her look, I read it,</p> <p>17 and this is not what you were asked, you were</p> <p>18 asked to write a report on professionalism, how</p> <p>19 you should act upon being a pathologist, being</p> <p>20 fair to your peers and being respectful, the</p> <p>21 lack of integrity that has been demonstrated in</p> <p>22 the past, it's not going to happen on my watch,</p> <p>23 but let's start fresh.</p> <p>24 So how long do you need to write</p> <p>25 a new report?</p>	<p style="text-align: right;">Page 265</p> <p>1 LEENA VARUGHESE</p> <p>2 not what we were expecting and conveyed the</p> <p>3 message that we wanted and we expected more</p> <p>4 from her.</p> <p>5 Q What was her general behavior</p> <p>6 during that interaction with you?</p> <p>7 A We met again at which point the</p> <p>8 book had been written -- at least she brought a</p> <p>9 copy of the book, the report that we requested</p> <p>10 was essentially the same a recount of what had</p> <p>11 happened, weeks after what we expected and at</p> <p>12 that meeting essentially when I started trying</p> <p>13 to put it in perspective, I said well you have</p> <p>14 a copy of the book, have you read it?</p> <p>15 She essentially threw the book,</p> <p>16 not essentially, to myself, but I started</p> <p>17 saying what's happening? You threw the book,</p> <p>18 Leena, from one side of the table to the other,</p> <p>19 that's the fact.</p> <p>20 And I said look, I mean, what's</p> <p>21 happening here?</p> <p>22 Are you reading that, this is</p> <p>23 what you are learning and she started</p> <p>24 escalating, trying to go back to the same</p> <p>25 story, oh, because, so it was so difficult in</p>

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<p style="text-align: right;">Page 266</p> <p>1 LEENA VARUGHESE</p> <p>2 that I saw that we were not going anywhere.</p> <p>3 So I end the meeting short</p> <p>4 thinking that she was going to have time to</p> <p>5 reconsider the matters and inviting her back.</p> <p>6 Q How did you come to the</p> <p>7 conclusion of issuing a final warning?</p> <p>8 A The series of repetitive</p> <p>9 incidents the lack of integrity, not responding</p> <p>10 to e-mails, not going to lectures and sitting</p> <p>11 in the Department, together with the lack of</p> <p>12 professionalism that she was displaying to all</p> <p>13 of our faculty, as well as the residents and</p> <p>14 the fellows, brought up as to a -- brought us</p> <p>15 to a point that we thought the disruption of</p> <p>16 operations was so large that besides the final</p> <p>17 warning and besides that final warning we were</p> <p>18 going to go ahead.</p> <p>19 And after realizing that she was</p> <p>20 in the office of senior administrator going</p> <p>21 over important potential documents and the lack</p> <p>22 of integrity proven throughout this period, I</p> <p>23 took, together with academic administration and</p> <p>24 the senior leadership of the Department, the</p> <p>25 next step of presenting her with a letter of</p>	<p style="text-align: right;">Page 268</p> <p>1 LEENA VARUGHESE</p> <p>2 operations were there, and that we couldn't</p> <p>3 come to have professionalism and respect as it</p> <p>4 happens at moments that are critical like this</p> <p>5 one in our job, which is an important job, we</p> <p>6 are the second Department in the country in</p> <p>7 volume and we cannot afford any mistakes at any</p> <p>8 point for our patients.</p> <p>9 DR. FIRPA: I have no other</p> <p>10 questions.</p> <p>11 DR. WEINFELD: Dr. Varughese.</p> <p>12</p> <p>13 CROSS-EXAMINATION BY DR. VARUGHESE:</p> <p>14</p> <p>15 Q How many times have you met me?</p> <p>16 A I met you at least three</p> <p>17 different times, on the first one being on May</p> <p>18 3rd, just a month after I arrived here, but</p> <p>19 having e-mails with you since mid-April.</p> <p>20 One of them on April 26th.</p> <p>21 Q April 26th, is that an exhibit?</p> <p>22 A I believe, yes, but anyway the</p> <p>23 first meeting was on May 3rd but we scheduled</p> <p>24 that meeting for May 3rd, of course.</p> <p>25 DR. BRONHEIM: When did you start</p>
<p style="text-align: right;">Page 267</p> <p>1 LEENA VARUGHESE</p> <p>2 suspension and termination.</p> <p>3 And I told her that at some</p> <p>4 point we were trying to avoid it, but that at</p> <p>5 some point we need to do the next steps and I</p> <p>6 asked her to review the letter to make sure</p> <p>7 that she read the final paragraph on the rights</p> <p>8 that she had, that she has definitely used</p> <p>9 today, and we conveyed the message that she was</p> <p>10 going to be escorted outside by security, but</p> <p>11 also that we have requested that -- I</p> <p>12 specifically had requested the presence of</p> <p>13 professional help in order if she wanted to</p> <p>14 have a member of our psychology psychiatry team</p> <p>15 being there for her to support that difficult</p> <p>16 moment and that I was concerned, I was</p> <p>17 concerned for her.</p> <p>18 Q Did you feel at that time that</p> <p>19 you had exhausted all the opportunities to give</p> <p>20 her an opportunity to redeem herself?</p> <p>21 A At this point I thought that</p> <p>22 there is nothing arbitrary and capricious on</p> <p>23 the issues we were taking, we had much</p> <p>24 documented the fact that the lack of integrity</p> <p>25 was there repetitively, that the disruption of</p>	<p style="text-align: right;">Page 269</p> <p>1 LEENA VARUGHESE</p> <p>2 here?</p> <p>3 THE WITNESS: April 1st.</p> <p>4 DR. BRONHEIM: That's pretty</p> <p>5 quick.</p> <p>6 Q So how many times have I</p> <p>7 mishandled a surgical pathology specimen?</p> <p>8 A On several occasions there have</p> <p>9 been reports of cases being delayed and in</p> <p>10 several cases.</p> <p>11 Q I mean mishandled or where a</p> <p>12 patient would suffer?</p> <p>13 A I don't have this information.</p> <p>14 Q Did you say that my self</p> <p>15 reflection exercise did not meet the</p> <p>16 requirements of the academic advisement?</p> <p>17 A No, it did not because we went</p> <p>18 over -- you essentially put a recount of a</p> <p>19 story that we wanted you to be further away and</p> <p>20 we asked you to produce something on</p> <p>21 professionalism.</p> <p>22 Q Okay.</p> <p>23 Are you aware of what the</p> <p>24 academic advisement says?</p> <p>25 A Yes.</p>

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<p style="text-align: right;">Page 270</p> <p>1 LEENA VARUGHESE</p> <p>2 Q I would like to refer to Exhibit</p> <p>3 3 on the Department.</p> <p>4 DR. WEINFELD: Department Exhibit</p> <p>5 3, okay.</p> <p>6 Q It's on Page 19, last point, it</p> <p>7 says, "Self reflection exercise to be handed</p> <p>8 into me within four weeks. You are expected to</p> <p>9 write down your account of the situation and</p> <p>10 describe how you could have approached things</p> <p>11 in a better fashion, including commentary on</p> <p>12 physician professionalism and explore it in</p> <p>13 this circumstance."</p> <p>14 I think my first reflection</p> <p>15 which is Exhibit 2 in my list, I think that</p> <p>16 particular reflection actually does address all</p> <p>17 points of the academic advisement.</p> <p>18 A So also in this --</p> <p>19 DR. WEINFELD: So what's the</p> <p>20 question?</p> <p>21 Q Do you agree that it addresses</p> <p>22 it or not?</p> <p>23 A We don't, and as a matter of</p> <p>24 fact, if you recall, to the first line on this</p> <p>25 very same page it says that this needs to be</p>	<p style="text-align: right;">Page 272</p> <p>1 LEENA VARUGHESE</p> <p>2 A What's the question?</p> <p>3 Q They never got back to me about</p> <p>4 the findings.</p> <p>5 DR. MARIN: I think that's to be</p> <p>6 dealt with, he's not part of that, so</p> <p>7 your question should pertain --</p> <p>8 DR. VARUGHESE: I am going to</p> <p>9 explain to him that.</p> <p>10 DR. WEINFELD: Right now he's a</p> <p>11 witness. You have to ask him questions.</p> <p>12 DR. BRONHEIM: You can tell us</p> <p>13 all of this in your discussion.</p> <p>14 Q So, at that meeting exactly to</p> <p>15 what extent were you aware of this particular</p> <p>16 reflection that I had written, did you read it</p> <p>17 already?</p> <p>18 A Yes, I did.</p> <p>19 Q Okay, good. Did Mr. Castaldi</p> <p>20 also read the --</p> <p>21 A Yes, he did. We read it</p> <p>22 actually also at the end together before we met</p> <p>23 you, because we were surprised at the points of</p> <p>24 professionalism from both of our parts didn't</p> <p>25 come up, it was mainly a recount of some of the</p>
<p style="text-align: right;">Page 271</p> <p>1 LEENA VARUGHESE</p> <p>2 done in three or four weeks and that was on</p> <p>3 March 30th and you were supposed to handle it</p> <p>4 in January 24th.</p> <p>5 Q Are you aware that I filed a</p> <p>6 grievance with the Human Resources Department</p> <p>7 of this hospital regarding this particular</p> <p>8 action taken against me, the academic</p> <p>9 advisement?</p> <p>10 A It was before my time and when I</p> <p>11 arrived it's for the reason I wanted to start</p> <p>12 fresh with you again.</p> <p>13 Q Would it be fair, understandable</p> <p>14 why it was delayed?</p> <p>15 I mean do you think there may be</p> <p>16 other reasons why it was delayed, not just</p> <p>17 my --</p> <p>18 A As an academic I can assure you</p> <p>19 I can understand a delay of one week, two</p> <p>20 weeks, three weeks, but in something that is to</p> <p>21 be in a month to wait three months and wait one</p> <p>22 day before I started, I don't see the excuse in</p> <p>23 that.</p> <p>24 Q Well, I filed a grievance with</p> <p>25 the Human Resources Department.</p>	<p style="text-align: right;">Page 273</p> <p>1 LEENA VARUGHESE</p> <p>2 events.</p> <p>3 Q Do you remember Mr. Costaldi was</p> <p>4 confused as to what the events were?</p> <p>5 A I don't recall.</p> <p>6 Q I mean you are saying that --</p> <p>7 DR. MARIN: I don't recall.</p> <p>8 He answered your question.</p> <p>9 A I recall him being very sharp, I</p> <p>10 don't recall him being confused.</p> <p>11 Q He seemed confused.</p> <p>12 So then I met with you again two</p> <p>13 weeks later, no, three weeks later, and you</p> <p>14 said I threw a book at you?</p> <p>15 A Yes.</p> <p>16 DR. WEINFELD: Is there a</p> <p>17 question?</p> <p>18 Q Describe how I threw the book at</p> <p>19 you?</p> <p>20 A I said did you read the book?</p> <p>21 What do you mean? This book? Yes, I read it</p> <p>22 and you through it, if you don't say -- how you</p> <p>23 call that?</p> <p>24 You didn't get up and say</p> <p>25 well --</p>

<p style="text-align: right;">Page 274</p> <p>1 LEENA VARUGHESE</p> <p>2 Q That's not what happened, I just</p> <p>3 put the book down like this.</p> <p>4 DR. MARIN: You asked him to tell</p> <p>5 you what his reflection is. He's given</p> <p>6 it to us.</p> <p>7 DR. VARUGHESE: I am just saying</p> <p>8 I just placed it on his desk. If I</p> <p>9 threw it at him, it wasn't my intent to</p> <p>10 hurt him. I didn't do that.</p> <p>11 DR. MARIN: Questions and</p> <p>12 answers.</p> <p>13 Q So I gave you the second</p> <p>14 reflection, you read it and you said that you</p> <p>15 needed to consult the hospital's legal?</p> <p>16 A It was very similar to the same</p> <p>17 recounts, I thought that you were not following</p> <p>18 the kind of advice that you were given by</p> <p>19 several of the members of the Department and we</p> <p>20 thought that we needed to consult both with our</p> <p>21 colleagues in the Department and outside of the</p> <p>22 Department.</p> <p>23 Q So you wanted to consult the</p> <p>24 hospital's legal department, okay.</p> <p>25 So here is the thing --</p>	<p style="text-align: right;">Page 276</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. MARIN: This is not a time</p> <p>3 for a statement.</p> <p>4 DR. BRONHEIM: You will have an</p> <p>5 opportunity to make a statement.</p> <p>6 Q Did you advise me as to what</p> <p>7 should go into the new reflection?</p> <p>8 A Of course we did, and we got the</p> <p>9 book for you and we read the book as well and</p> <p>10 of course I was I expected to know what was in</p> <p>11 the book, we said that we could buy it for you,</p> <p>12 you said you were going to get it.</p> <p>13 Q Did you buy me the book?</p> <p>14 A You said that you had it</p> <p>15 yourself, the book, and you went to the library</p> <p>16 to pick it up.</p> <p>17 Q It's not in the library, it's</p> <p>18 not available.</p> <p>19 DR. BRONHEIM: Did you obtain the</p> <p>20 book?</p> <p>21 DR. VARUGHESE: Yes, I have the</p> <p>22 book.</p> <p>23 Q You did e-mail me and you said</p> <p>24 future constructive --</p> <p>25 DR. LEITER: If you don't have a</p>
<p style="text-align: right;">Page 275</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. MARIN: Hold it, questions.</p> <p>3 Q Question, question.</p> <p>4 So, you got the reflection, you</p> <p>5 said that you were going to consult --</p> <p>6 DR. MARIN: Is there a question?</p> <p>7 Q Do you recall me e-mailing you,</p> <p>8 or I actually e-mailed Dr. Lento to ask him</p> <p>9 exactly what should go into the second</p> <p>10 reflection.</p> <p>11 He never responded to me,</p> <p>12 then --</p> <p>13 DR. MARIN: Dr. Varughese you are</p> <p>14 supposed to ask him questions.</p> <p>15 Q You responded to me at some</p> <p>16 point and --</p> <p>17 DR. MARIN: We won't continue the</p> <p>18 proceedings if you can't follow in some</p> <p>19 sort of pattern that we can help you</p> <p>20 with.</p> <p>21 DR. WEINFELD: Take a minute,</p> <p>22 think about what you want to ask.</p> <p>23 I think there is a question.</p> <p>24 DR. VARUGHESE: I just want to</p> <p>25 make a statement.</p>	<p style="text-align: right;">Page 277</p> <p>1 LEENA VARUGHESE</p> <p>2 question, you are better off not listing</p> <p>3 it.</p> <p>4 Q Well, I asked Dr. Cordone-Cardo</p> <p>5 for advice, but I did not get adequate response</p> <p>6 back about what needs --</p> <p>7 DR. MARIN: Dr. Varughese, again,</p> <p>8 you are not asking, you can terminate</p> <p>9 your questions at this time if there is</p> <p>10 nothing else, and we can go on to the</p> <p>11 next witness.</p> <p>12 DR. VARUGHESE: Okay.</p> <p>13 DR. MARIN: Thank you.</p> <p>14 DR. WEINFELD: Thank you.</p> <p>15 MR. McEVOY: The Department</p> <p>16 rests.</p> <p>17 DR. WEINFELD: I would like to</p> <p>18 move that we take a two minute break</p> <p>19 because I think people need to answer</p> <p>20 pages.</p> <p>21 (At this point in the proceedings</p> <p>22 there was a recess, after which the</p> <p>23 hearing continued as follows:)</p> <p>24 DR. WEINFELD: Dr. Varughese, you</p> <p>25 will have the opportunity to present</p>

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<p style="text-align: right;">Page 278</p> <p>1 LEENA VARUGHESE</p> <p>2 your case, you can make an opening</p> <p>3 statement, call witnesses and we should</p> <p>4 proceed; it's getting late.</p> <p>5 DR. VARUGHESE: So I am just</p> <p>6 going to read a statement that I</p> <p>7 prepared to the best of my ability.</p> <p>8 So, ladies and gentlemen, members</p> <p>9 of the Board and the Department, and Mr.</p> <p>10 MacDonald from general counsel, so</p> <p>11 basically here is the story.</p> <p>12 So I was placed on academic</p> <p>13 advisement on December 21 of last year</p> <p>14 following an altercation with the previous</p> <p>15 Chief Resident, Samuel McCash where I felt</p> <p>16 that I was being physically and verbally</p> <p>17 intimidated, humiliated.</p> <p>18 This is as per house staff policy</p> <p>19 manual which is Exhibit 43, some of you</p> <p>20 may have it.</p> <p>21 And I believe pages 31 to 35 notes</p> <p>22 what is considered harassment in this</p> <p>23 hospital.</p> <p>24 I have attached my reflection of</p> <p>25 the event which is sort of details what</p>	<p style="text-align: right;">Page 280</p> <p>1 LEENA VARUGHESE</p> <p>2 And this is as of when I turned in</p> <p>3 my reflection which was in March and in</p> <p>4 April eventually I had to contact Human</p> <p>5 Resources to find out what their decision</p> <p>6 was.</p> <p>7 So basically before the resolution</p> <p>8 of this incident I had to meet with Dr.</p> <p>9 Lento on January 18th and I was continued</p> <p>10 to be on academic advisement at that</p> <p>11 point.</p> <p>12 Meanwhile Samuel McCash was not</p> <p>13 reprimanded at all, and that still stands</p> <p>14 to my knowledge.</p> <p>15 So, prior to this there was a</p> <p>16 previous incident with the Chief Resident</p> <p>17 where he shouted at me shut up, shut up,</p> <p>18 shut your mouth, repeatedly in front of my</p> <p>19 colleagues following a discussion of</p> <p>20 coverage for an away resident.</p> <p>21 He wanted to speak to me following</p> <p>22 this incident on his own during this</p> <p>23 conversation, he told me that no one liked</p> <p>24 me, that I would never find a job, no one</p> <p>25 is teaching me and that I won't be</p>
<p style="text-align: right;">Page 279</p> <p>1 LEENA VARUGHESE</p> <p>2 happened, but also discusses</p> <p>3 professionalism and how I would have</p> <p>4 approached things differently.</p> <p>5 DR. WEINFELD: Where is that?</p> <p>6 DR. VARUGHESE: That's Exhibit 2.</p> <p>7 DR. LEITER: I see it in 3.</p> <p>8 DR. VARUGHESE: 2 and 3, I was</p> <p>9 asked to the old reflection, write a new</p> <p>10 one.</p> <p>11 At this point I had requested a</p> <p>12 formal apology from Samuel McCash, as</p> <p>13 Chief Resident and a mediation regarding</p> <p>14 this particular incident and there was</p> <p>15 another incident, so I asked for</p> <p>16 mediation.</p> <p>17 None of this had occurred and at</p> <p>18 that point I was placed on academic</p> <p>19 advisement, like I mentioned before, so I</p> <p>20 made an official complaint to Human</p> <p>21 Resources when action was taken against me</p> <p>22 Human Resources performed an</p> <p>23 investigation of the matter but did not</p> <p>24 contact me to inform what their findings</p> <p>25 were.</p>	<p style="text-align: right;">Page 281</p> <p>1 LEENA VARUGHESE</p> <p>2 successful.</p> <p>3 I believe this behavior constituted</p> <p>4 an outright hostile work environment for</p> <p>5 me at that point.</p> <p>6 So I had sent an e-mail to the</p> <p>7 leadership of the Department of Pathology</p> <p>8 to address what had happened to me that</p> <p>9 morning.</p> <p>10 And how I considered what Samuel</p> <p>11 McCash was saying to me to be very hostile</p> <p>12 in attitude and also very discriminative</p> <p>13 towards me as a girl, as a woman, because</p> <p>14 I really don't think he would treat a man</p> <p>15 like that.</p> <p>16 So then I also spoke with the</p> <p>17 program director soon after, he made</p> <p>18 excuses for Samuel McCash saying sometimes</p> <p>19 people yell and that there is a place</p> <p>20 where people to be shouted at and that the</p> <p>21 bullying situation is that sometimes</p> <p>22 residents need to be told.</p> <p>23 He also said that the Department</p> <p>24 was a dysfunctional Department family and</p> <p>25 I was then accused of writing a diatribe</p>

<p style="text-align: right;">Page 282</p> <p>1 LEENA VARUGHESE</p> <p>2 both on evaluation about surgical</p> <p>3 pathology.</p> <p>4 Essentially he effectively -- well,</p> <p>5 he indicated to me that in so many words</p> <p>6 that my rights won't be protected as long</p> <p>7 as he believed that I wrote a negative</p> <p>8 evaluation, and he felt more in line with</p> <p>9 the Chief Resident who was also his</p> <p>10 friend.</p> <p>11 So a lot of excuses were made and I</p> <p>12 essentially felt like there was no</p> <p>13 recourse for me to follow up on this</p> <p>14 particular matter and I just left it at</p> <p>15 that.</p> <p>16 That was in September and then</p> <p>17 following that I served on the ACGME</p> <p>18 review program to help the program prepare</p> <p>19 for the ACGME review and I was not asked</p> <p>20 to present the program to the ACGME for</p> <p>21 inspection, which is fine, but perhaps my</p> <p>22 evaluations were included for the ACGME</p> <p>23 evaluation, I hope so, but I'm not sure</p> <p>24 about that.</p> <p>25 But anyway the Department is</p>	<p style="text-align: right;">Page 284</p> <p>1 LEENA VARUGHESE</p> <p>2 necessitated because of the actions taken</p> <p>3 against me instead of some acknowledgment</p> <p>4 and mediation.</p> <p>5 And what I believe was a rather</p> <p>6 traumatizing event that occurred to me.</p> <p>7 The reflection also addressed my</p> <p>8 involvement in the event, so the</p> <p>9 reflection does accurately reflect what</p> <p>10 happened.</p> <p>11 I e-mailed Dr. Lento soon after the</p> <p>12 meeting to ask him to please state what</p> <p>13 your concerns are, and be specific as to</p> <p>14 what you would like for me to do.</p> <p>15 I did not receive a response to</p> <p>16 this e-mail. After review of the</p> <p>17 reflection written and submitted on March</p> <p>18 30, 2011 I decided that it accurately</p> <p>19 reflected with appropriate amount of</p> <p>20 insight.</p> <p>21 I met Dr. Lento and Dr.</p> <p>22 Cordone-Cardo and Mr. Costaldi again on</p> <p>23 May 24, 2011 and submitted the new</p> <p>24 reflection.</p> <p>25 I was prepared to discuss the book</p>
<p style="text-align: right;">Page 283</p> <p>1 LEENA VARUGHESE</p> <p>2 currently ACGME accredited and that's all</p> <p>3 wonderful and I'm very happy about that.</p> <p>4 So moving on, on 4/26/2011 I</p> <p>5 received an e-mail from Dr. Lento stating</p> <p>6 that a period of academic advisement had</p> <p>7 ended.</p> <p>8 I was then contacted by Basil</p> <p>9 Ocinto via e-mail to meet Dr.</p> <p>10 Cordone-Cardo, Lento and Mr. Castaldi and</p> <p>11 May 3, 2011 so at this meeting Dr.</p> <p>12 Cordone-Cardo, Dr. Lento and Mr. Costaldi</p> <p>13 were very confrontational and antagonistic</p> <p>14 towards me in their attitude and demeanor,</p> <p>15 they said that they felt that my</p> <p>16 reflection was not satisfactory in its</p> <p>17 tone and demonstrated a lack of insight</p> <p>18 and had to be recast.</p> <p>19 I calmly stated that the reflection</p> <p>20 addressed every point as mentioned in the</p> <p>21 letter of academic advisement and was an</p> <p>22 accurate portrayal of what had happened to</p> <p>23 me on the evening of December 8, 2010.</p> <p>24 The tone of my reflection which I</p> <p>25 believe is rather defensive was</p>	<p style="text-align: right;">Page 285</p> <p>1 LEENA VARUGHESE</p> <p>2 on professionalism by Steven Pesan at</p> <p>3 length, I was not given this opportunity</p> <p>4 at that point, and that's okay, since in</p> <p>5 light of all the issues.</p> <p>6 Basically I respectfully disagree</p> <p>7 with Dr. Lento and Dr. Cordone-Cardo that</p> <p>8 my reflections lack insight or</p> <p>9 professionalism and I demonstrated</p> <p>10 professionalism and restraint during all</p> <p>11 of my meetings.</p> <p>12 So, and of course I have a detailed</p> <p>13 record of all these meetings, if it comes</p> <p>14 to having to review that in the future.</p> <p>15 I have also retained legal counsel</p> <p>16 following April 20 -- April 2011 to advise</p> <p>17 me on the matter at hand, and I have also</p> <p>18 worked with several other lawyers</p> <p>19 including several consultations to protect</p> <p>20 myself from further punitive actions that</p> <p>21 may be taken by the hospital or the</p> <p>22 Department.</p> <p>23 So, following my second meeting</p> <p>24 with Dr. Cordone-Cardo, Dr. Lento and</p> <p>25 Mr. Costaldi, the law firm that I retained</p>

<p style="text-align: right;">Page 286</p> <p>1 LEENA VARUGHESE</p> <p>2 at that point sent in a letter to the</p> <p>3 hospital on June 13, 2011 detailing the</p> <p>4 reasons why I have retained their</p> <p>5 services.</p> <p>6 Which to me is obviously the</p> <p>7 hostile work environment that I was</p> <p>8 experiencing at this point.</p> <p>9 Subsequently after this letter was</p> <p>10 sent in I was placed on disciplinary</p> <p>11 action on 7/14 -- on July 15th, sighting</p> <p>12 my second reflection as being inadequate</p> <p>13 and demonstrating lack of insight and</p> <p>14 several other issues that are not true,</p> <p>15 and that's also in the exhibit.</p> <p>16 Finally I would like to address the</p> <p>17 various points that were addressed that</p> <p>18 were noted in the summary of suspension</p> <p>19 letter, termination, suspension,</p> <p>20 termination.</p> <p>21 So basically there was a concern of</p> <p>22 duty and professionalism concerning two</p> <p>23 cytogenetics rotation, I believe we had an</p> <p>24 opportunity to speak with Dr. Najfeld, so</p> <p>25 basically my statement in response to that</p>	<p style="text-align: right;">Page 288</p> <p>1 LEENA VARUGHESE</p> <p>2 And then I believe I was</p> <p>3 professional and cordial with the staff</p> <p>4 and Dr. Najfeld at all times.</p> <p>5 The laboratory staff contacted me</p> <p>6 several times by e-mail asking me not to</p> <p>7 come in for very specific reasons, such as</p> <p>8 being on short staff, short staffing</p> <p>9 issues and also because their clinical</p> <p>10 responsibilities that they could not pay</p> <p>11 attention to my needs in terms of teaching</p> <p>12 me, what they do.</p> <p>13 On Thursday August 4, 2011 Dr.</p> <p>14 Najfeld was contacted by Dr. Firpa to more</p> <p>15 closely supervise my activities.</p> <p>16 She wrote an e-mail in response</p> <p>17 saying she was very busy implementing new</p> <p>18 equipment during that first week and that</p> <p>19 she did not have enough time to spend</p> <p>20 time, that she did not have enough time to</p> <p>21 spend with me.</p> <p>22 Following this Dr. Najfeld became</p> <p>23 more combative and berated me in front of</p> <p>24 the staff several times,</p> <p>25 I sometimes used a Blackberry</p>
<p style="text-align: right;">Page 287</p> <p>1 LEENA VARUGHESE</p> <p>2 particular statement is that clinical</p> <p>3 pathology rotations including cytogenetic</p> <p>4 rotations are "light rotations" or</p> <p>5 resident independent rotations regarding</p> <p>6 observation and understanding of</p> <p>7 laboratory tests and most importantly</p> <p>8 extensive reading.</p> <p>9 Many residents also use some of</p> <p>10 this time to prepare for the Board</p> <p>11 examination.</p> <p>12 When I began cytogenetics rotation,</p> <p>13 which is a two week rotation which began</p> <p>14 on 8/1/2011 and went on to 8/12/2011, I</p> <p>15 was asked by Dr. Najfeld to read a chapter</p> <p>16 written by herself in the Molecular</p> <p>17 Genetic Pathology Book by Dr. Sang.</p> <p>18 So I performed that task and spent</p> <p>19 some time reviewing the manuals and worked</p> <p>20 with the technologist observing how the</p> <p>21 cytogenetic testing was performed, and</p> <p>22 reviewed some basic principles of</p> <p>23 karyotyping during the first week.</p> <p>24 Please feel free to interview the</p> <p>25 laboratory staff if that's necessitated.</p>	<p style="text-align: right;">Page 289</p> <p>1 LEENA VARUGHESE</p> <p>2 device to take notes on research</p> <p>3 information, Dr. Najfeld took offense at</p> <p>4 this and I stopped doing that.</p> <p>5 Dr. Najfeld asked me to give a</p> <p>6 presentation on CML on Thursday for the</p> <p>7 following week, on Tuesday, this was</p> <p>8 Thursday 4/11 and for Tuesday 8/9, 11 on</p> <p>9 Monday, 8/8/11 which was the beginning of</p> <p>10 the final week of this rotation I spoke to</p> <p>11 Dr. Najfeld in the morning to review the</p> <p>12 rotation requirements for the first time.</p> <p>13 The day before I was to give my</p> <p>14 presentation on CML Dr. Najfeld wanted to</p> <p>15 review the presentation with me.</p> <p>16 However, she was away for most of</p> <p>17 the afternoon and gave no indication as to</p> <p>18 when she would return.</p> <p>19 I left the Department around 4:00</p> <p>20 p.m. or so, and e-mailed my presentation</p> <p>21 to her.</p> <p>22 I was on my -- on the subway back</p> <p>23 to my home in Brooklyn, Dr. Najfeld</p> <p>24 apparently called me and e-mailed me</p> <p>25 several times, but I was not able to</p>

<p style="text-align: right;">Page 290</p> <p>1 LEENA VARUGHESE</p> <p>2 receive a call on the subway and I arrived</p> <p>3 at home around 5:40 or so, and I called, I</p> <p>4 tried to return her e-mails.</p> <p>5 I must also note actually the first</p> <p>6 week on Friday she wasn't at work, she was</p> <p>7 working from home, so, in fact, she may</p> <p>8 have gotten the e-mail on Thursday, but</p> <p>9 she actually didn't speak to me on Friday</p> <p>10 because -- and she had to speak to me on</p> <p>11 Monday because she was working from home</p> <p>12 on Friday.</p> <p>13 So anyway, going back, when I</p> <p>14 returned home I noted the e-mail messages</p> <p>15 and contacted her immediately.</p> <p>16 She said that the presentation was</p> <p>17 not ready due to my stylistic preferences</p> <p>18 in discussing the case and certain minor</p> <p>19 errors.</p> <p>20 I asked her to e-mail me or simply</p> <p>21 tell me what the issue was, but she wanted</p> <p>22 me to return to her office.</p> <p>23 It was rather late and it was out</p> <p>24 of the question that I return from before</p> <p>25 6:00 from my home in Brooklyn, it takes me</p>	<p style="text-align: right;">Page 292</p> <p>1 LEENA VARUGHESE</p> <p>2 for CP. It's not a very formal event.</p> <p>3 So, the presentation was postponed</p> <p>4 to the next week, the following week the</p> <p>5 case was discussed at length in</p> <p>6 conjunction with the hemopath resident who</p> <p>7 was on the hemopath service who had also</p> <p>8 needed time to form the case and present</p> <p>9 as well.</p> <p>10 Overall the presentation was well</p> <p>11 done and well received, I had attached the</p> <p>12 presentation, as Exhibit 25, Dr. Najfeld</p> <p>13 also gave no indication that my</p> <p>14 performance was unsatisfactory at the end</p> <p>15 of this rotation.</p> <p>16 I believe I did the best job I</p> <p>17 could give in the short time on this</p> <p>18 rotation and added pressure to serve or</p> <p>19 function on other services.</p> <p>20 The point 2, duty concerns</p> <p>21 regarding coverage.</p> <p>22 So frozen section coverage on</p> <p>23 August 5th, I was asked to cover frozen</p> <p>24 section service for an absent resident on</p> <p>25 August 4th.</p>
<p style="text-align: right;">Page 291</p> <p>1 LEENA VARUGHESE</p> <p>2 approximately 30 minutes to get back.</p> <p>3 Then on the morning of the</p> <p>4 presentation at 7:00 a.m. Dr. Najfeld</p> <p>5 e-mailed me stating she did not want me to</p> <p>6 make the presentation, even though I was</p> <p>7 prepared to do so, she also asked me to</p> <p>8 inform other attendees that I would not</p> <p>9 present.</p> <p>10 The presentation was postponed to</p> <p>11 the next week, also the CP core conference</p> <p>12 tends to have more than one conference</p> <p>13 that gets presented so there is often me</p> <p>14 and several other people who present.</p> <p>15 People may attend depending on the</p> <p>16 number of conferences that are being</p> <p>17 presented, and it's not always common</p> <p>18 knowledge who is presenting, what is the</p> <p>19 interesting case conference that we can,</p> <p>20 so people do tend to show up at 9:00 a.m.</p> <p>21 anyway and just are ready to discuss any</p> <p>22 issues you have or any interesting</p> <p>23 clinical pathology cases that have come</p> <p>24 up.</p> <p>25 So that's one hour available time</p>	<p style="text-align: right;">Page 293</p> <p>1 LEENA VARUGHESE</p> <p>2 I said that I would not be able to</p> <p>3 do so without giving an elaborate</p> <p>4 explanation as to why to the Chief</p> <p>5 Resident.</p> <p>6 Basically I was not able to elevate</p> <p>7 my arm because I had slept on it the wrong</p> <p>8 way and my arm was numb for days. It</p> <p>9 never happened to me before, so as such I</p> <p>10 could not cover the frozen section service</p> <p>11 for that day.</p> <p>12 I was sent an e-mail by Dr. Jordan</p> <p>13 the co-Chief Resident who was on rotation</p> <p>14 at this point that I needed to provide a</p> <p>15 doctor's note documenting this injury.</p> <p>16 This is not something that can be</p> <p>17 easily done, and especially if I am at</p> <p>18 work, or so I wasn't able to do that, but</p> <p>19 I explained to her that I tried to explain</p> <p>20 to her that this particular -- I had this</p> <p>21 particular injury, that's why I'm not able</p> <p>22 to cover that particular day.</p> <p>23 So, she wanted me to -- so I found</p> <p>24 that her request for me to -- and this is</p> <p>25 not a call coverage, this is mainly every</p>

<p style="text-align: right;">Page 294</p> <p>1 LEENA VARUGHESE</p> <p>2 day duty coverage, and actually at this</p> <p>3 point the service tends to be mostly</p> <p>4 resident dependent as well, the frozen</p> <p>5 sections because there is a technologist</p> <p>6 who does some of the work, but personally</p> <p>7 for me I just couldn't cut the specimens</p> <p>8 and some of those duties would require</p> <p>9 some manual dexterity.</p> <p>10 So anyway, so I found the request</p> <p>11 for a doctor's note rather unreasonable,</p> <p>12 because I did go to work that day for</p> <p>13 cytogenetics rotation and I was working</p> <p>14 with the staff there.</p> <p>15 Dr. Najfeld was not there that day,</p> <p>16 and anyway in order for me to get a -- so</p> <p>17 I just thought it was unreasonable because</p> <p>18 I would have to leave work and get a note.</p> <p>19 I also did -- I didn't change my</p> <p>20 rationale for refusing the assignment, and</p> <p>21 I did not believe I was dishonest or</p> <p>22 insubordinate in these matters.</p> <p>23 I mentioned at a later date that I</p> <p>24 did not think that it is ideal for me to</p> <p>25 have to lose out on the limited time on CP</p>	<p style="text-align: right;">Page 296</p> <p>1 LEENA VARUGHESE</p> <p>2 an away in Pennsylvania.</p> <p>3 Dr. Jordan did not ask me to reply</p> <p>4 to her, you can check the e-mail, it was a</p> <p>5 little bit -- it was one of Elizabeth's</p> <p>6 but she doesn't specifically ask me to</p> <p>7 respond to her, and since I had this</p> <p>8 discussion with her the Friday before</p> <p>9 about the new policies in the Department,</p> <p>10 I had a chance to review it and I decided</p> <p>11 okay, if she says that I have to cover, it</p> <p>12 just means that I am going to have to</p> <p>13 cover, if I couldn't, I would have to tell</p> <p>14 her.</p> <p>15 Her rationale is that I'm not</p> <p>16 telling her that I'm covering, but I</p> <p>17 didn't think it was up to me at this</p> <p>18 point, because I have to cover.</p> <p>19 Anyway, so there was -- I</p> <p>20 acknowledged her e-mail and I planned to</p> <p>21 cover the service, if I was unable to</p> <p>22 cover the service of course I would have</p> <p>23 informed her.</p> <p>24 But you have to also remember that</p> <p>25 I have other responsibilities such as</p>
<p style="text-align: right;">Page 295</p> <p>1 LEENA VARUGHESE</p> <p>2 rotations to cover AP service, similarly</p> <p>3 because CP service is about 18 months and</p> <p>4 AP service is about 36 months.</p> <p>5 Personally I am not even -- I don't</p> <p>6 think I am getting actually 18 months of</p> <p>7 CP even though it's being stated that it</p> <p>8 is CP by Dr. Lento.</p> <p>9 So, I really am concerned that I</p> <p>10 have the adequate time that I need for CP.</p> <p>11 And last year there was a strict</p> <p>12 prohibition of course within reason from</p> <p>13 asking a senior resident on CP service to</p> <p>14 cover AP services.</p> <p>15 And this is not meaning like you</p> <p>16 can't teach, of course, as a senior</p> <p>17 resident you have to go and teach and do</p> <p>18 all that, but from saying that you're</p> <p>19 assigned to like the service if you really</p> <p>20 need that requirement.</p> <p>21 Finally, point 2, surgical coverage</p> <p>22 on August 12th, so basically on August 12,</p> <p>23 2011 I was asked to cover the surgical</p> <p>24 pathology service by an e-mail from</p> <p>25 Dr. Jordan, the Chief Resident who was on</p>	<p style="text-align: right;">Page 297</p> <p>1 LEENA VARUGHESE</p> <p>2 going to cytogenetics so I had to meet</p> <p>3 with Dr. Najfeld for the exit interview</p> <p>4 which I expected would be somewhat</p> <p>5 challenging,</p> <p>6 I needed to prepare for this, I</p> <p>7 spoke to her briefly regarding what I had</p> <p>8 learned while I was on cytogenetics for</p> <p>9 two weeks and she asked me questions on</p> <p>10 techniques and methods in cytogenetics,</p> <p>11 principles in cytogenetics and also</p> <p>12 specific translocations associated with</p> <p>13 different diseases, she also had me</p> <p>14 complete the karyotype for the case that I</p> <p>15 had to present, and I feel that at this</p> <p>16 point I was ready to karyotype a case</p> <p>17 somewhat competently.</p> <p>18 So it was good that I didn't</p> <p>19 present the case because before that I</p> <p>20 would not have been able to karyotype this</p> <p>21 case anyway, so I karyotyped the case and</p> <p>22 I presented the same case the following</p> <p>23 Tuesday.</p> <p>24 During the midst of this Dr. Lento</p> <p>25 calls cytogenetics lab and accuses me of</p>

<p style="text-align: right;">Page 298</p> <p>1 LEENA VARUGHESE</p> <p>2 not answering his pages. I never received</p> <p>3 these pages and I apologized to him if he</p> <p>4 had paged me and I did not call him back.</p> <p>5 He then asked me if I knew that I</p> <p>6 was covering and I said yes, I would be</p> <p>7 covering for the afternoon and I also felt</p> <p>8 confident that Dr. Lento would relay this</p> <p>9 appropriate message to Adrienne Jordan and</p> <p>10 I proceeded to work on my cytogenetics</p> <p>11 rotations at that point.</p> <p>12 Point 3, unprofessional response to</p> <p>13 request for change of elective rotation.</p> <p>14 So on August 3, 2011 I requested a</p> <p>15 change from GI pathology to dermpath</p> <p>16 directly to Dr. Firpa,</p> <p>17 I was told by Dr. Firpa that the</p> <p>18 change would be fine if he had clearance</p> <p>19 from Dr. Blejwas and that he would contact</p> <p>20 her the following day.</p> <p>21 I spoke to him again on August 24th</p> <p>22 of 2011 and he said that he was busy and</p> <p>23 was not able to consider the request --</p> <p>24 consider my request to switch to</p> <p>25 dermpath.</p>	<p style="text-align: right;">Page 300</p> <p>1 LEENA VARUGHESE</p> <p>2 that was fine, I figured okay, you know,</p> <p>3 it's an elective, great, I'll just do the</p> <p>4 elective at this point.</p> <p>5 But I was e-mailed on like a day</p> <p>6 following that or two days following that</p> <p>7 by Dr. Jordan stating that Dr. Firpa had</p> <p>8 spoken to her about the GI elective and if</p> <p>9 I wanted to switch it I would have to</p> <p>10 speak to Dr. You, who was the only person</p> <p>11 who could switch with me, it was just very</p> <p>12 confusing for me and she just mandated</p> <p>13 that I only speak with Dr. You, I only</p> <p>14 e-mail him with Dr. Firpa cc'd.</p> <p>15 And she stated I couldn't directly</p> <p>16 approach Dr. You or talk to him or talk to</p> <p>17 any other residents in the Department.</p> <p>18 That event effectively prevents me</p> <p>19 from doing my job, if there are other</p> <p>20 residents interested in doing the</p> <p>21 elective, that means I can switch to a</p> <p>22 different elective, but Dr. Adrienne</p> <p>23 Jordan is basically saying that I am only</p> <p>24 allowed to talk to Dr. You, she is the</p> <p>25 only person who can switch with you and</p>
<p style="text-align: right;">Page 299</p> <p>1 LEENA VARUGHESE</p> <p>2 Finally, my request was denied on</p> <p>3 September 7th.</p> <p>4 I spoke to Dr. Firpa in person to</p> <p>5 discuss why my request was denied, and he</p> <p>6 initially told me that Dr. Blejwas had</p> <p>7 approved my request.</p> <p>8 I had also spoken to Dr. Harpaz</p> <p>9 several times at this point, I spoke to</p> <p>10 him on August 24th because I was on call</p> <p>11 at the hospital, so I spoke to him about</p> <p>12 5:30 or so, and then I spoke to him again</p> <p>13 on September 1st when I arrived back at</p> <p>14 the hospital.</p> <p>15 So he had told me that he was</p> <p>16 amenable to me changing from GI pathology</p> <p>17 to any other elective of my choosing, as</p> <p>18 long as he had coverage.</p> <p>19 So, basically I talked to Dr.</p> <p>20 Harpaz and he said that he was amenable to</p> <p>21 my request if he had a medical student or</p> <p>22 resident who was on the service, but any</p> <p>23 way I just accepted at this point that my</p> <p>24 request was denied and I was going to have</p> <p>25 to do GI whether I liked it or not, and</p>	<p style="text-align: right;">Page 301</p> <p>1 LEENA VARUGHESE</p> <p>2 you have to do it in this particular</p> <p>3 format; don't approach this person.</p> <p>4 I mean it's just rather strange.</p> <p>5 Anyway, so anyway so I spoke with</p> <p>6 Dr. Firpa that day, that was around</p> <p>7 lunchtime, he claims that I was being</p> <p>8 loud, but when I left his office he said I</p> <p>9 can -- he has an open door policy and I</p> <p>10 can bring my concerns to him in the</p> <p>11 future.</p> <p>12 So I just thought we left</p> <p>13 everything off on a nice cordial note, not</p> <p>14 necessarily that he was very upset with me</p> <p>15 and he felt that I was yelling at him.</p> <p>16 So anyway, eventually I spoke to</p> <p>17 Dr. Elise Suarez who was the GI fellow at</p> <p>18 the moment, and I made arrangements with</p> <p>19 her for the week of October 2nd because I</p> <p>20 wanted to attend the Ossler, I imagine</p> <p>21 even if I were to be on GI elective I</p> <p>22 would be allowed to attend the Ossler</p> <p>23 review course, which was coming up soon,</p> <p>24 so I made arrangements with her and she</p> <p>25 said that was fine, she's happy to cover</p>

Page 302	Page 304
<p>1 LEENA VARUGHESE</p> <p>2 for one week, and then basically I found</p> <p>3 out when I got the summary suspension</p> <p>4 that, you know, this was all misconstrued</p> <p>5 as being unresolved.</p> <p>6 Anyway moving on, Moore conference</p> <p>7 attendance and adherence to departmental</p> <p>8 policy.</p> <p>9 On August 29, 2011 I was sent an</p> <p>10 e-mail stating I had not attended 80</p> <p>11 percent of the conferences during period</p> <p>12 2.</p> <p>13 This new conference attendance</p> <p>14 policy was instituted on on August 15th by</p> <p>15 Dr. Adrienne Jordan as I had signed an</p> <p>16 acknowledgment of receipt and I also</p> <p>17 submitted and signed the acknowledgment of</p> <p>18 receiving and reviewing this new policies</p> <p>19 on August 15th.</p> <p>20 Dr. Adrienne Jordan, the co-Chief,</p> <p>21 was not at the hospital for that period</p> <p>22 and Dr. Elizabeth Morency, the other Chief</p> <p>23 Resident, was on vacation for the first</p> <p>24 two weeks of this rotation.</p> <p>25 On September 13, 2011 I called out</p>	<p>1 LEENA VARUGHESE</p> <p>2 didn't present at the conference.</p> <p>3 It states that, there was an e-mail</p> <p>4 sent to me by Dr. Hughes of the physician</p> <p>5 wellness committee that states that its</p> <p>6 because I didn't present at a conference.</p> <p>7 It's one of my exhibits. So that's</p> <p>8 Exhibit 21.</p> <p>9 The fellow, Dr. Robert Guarino who</p> <p>10 was initially assigned to present on</p> <p>11 August 14th and given ample time to</p> <p>12 prepare, I believe that was 15th,</p> <p>13 September 15th and given ample time to</p> <p>14 prepare, attended the conference and did</p> <p>15 not present that day, that morning.</p> <p>16 I did not believe my inability to</p> <p>17 present a conference on a very short</p> <p>18 notice is a fair reason for referral to</p> <p>19 the physicians wellness committee.</p> <p>20 The fellow who was initially</p> <p>21 supposed to present and was in attendance</p> <p>22 was not referred to the physician wellness</p> <p>23 committee for not presenting.</p> <p>24 Poor communication regarding leave</p> <p>25 of absence.</p>
Page 303	Page 305
<p>1 LEENA VARUGHESE</p> <p>2 sick, however I had hoped that I would</p> <p>3 recover and present a brief surgical</p> <p>4 pathology lecture.</p> <p>5 Dr. Adrienne Jordan was not</p> <p>6 satisfied with the topic and wanted me to</p> <p>7 present on some other list of topics,</p> <p>8 I did not have the adequate time to</p> <p>9 prepare a new presentation when I wasn't</p> <p>10 feeling well, the following day, September</p> <p>11 14th I did not feel significantly better</p> <p>12 so I called out sick again.</p> <p>13 Soon after on September 14th when I</p> <p>14 was out sick I was sent another e-mail</p> <p>15 stating I had to present on September 15th</p> <p>16 because a fellow who had been scheduled to</p> <p>17 present for several months prior would not</p> <p>18 be presenting.</p> <p>19 I attended the September 15th</p> <p>20 conference but I could not present because</p> <p>21 I did not have adequate time to prepare</p> <p>22 the presentation.</p> <p>23 Following this the Department</p> <p>24 decided to refer me to physician wellness</p> <p>25 committee for the second time because I</p>	<p>1 LEENA VARUGHESE</p> <p>2 Dr. Firpa did not meet with me to</p> <p>3 discuss an early departure from the</p> <p>4 residence conference on Thursday as</p> <p>5 mentioned above.</p> <p>6 Later that morning on September</p> <p>7 15th, Dr. Firpa asked me how I was</p> <p>8 feeling, I had taken two sick days</p> <p>9 previously and I said that I was well, but</p> <p>10 I was considering taking a month off</p> <p>11 through the Family Medical Leave Act, if</p> <p>12 it can be approved by the hospital and by</p> <p>13 my doctors.</p> <p>14 He stated that it may be a good</p> <p>15 idea, he said that I had a lot of</p> <p>16 potential and that I'm an excellent</p> <p>17 resident, he stated that in the meantime</p> <p>18 he wanted nothing more than for myself to</p> <p>19 be able to work on hemopath without</p> <p>20 additional stressors.</p> <p>21 He stated that he would e-mailing</p> <p>22 Dr. Jordan and would communicate directly</p> <p>23 with me.</p> <p>24 I also shared with him that I spoke</p> <p>25 to my doctor already and that it would be</p>

<p style="text-align: right;">Page 306</p> <p>1 LEENA VARUGHESE</p> <p>2 at least one week before I could obtain an</p> <p>3 appointment.</p> <p>4 So, Dr. Firpa was aware that it</p> <p>5 would take me at least one week to obtain</p> <p>6 an appointment with my doctor.</p> <p>7 Dr. Firpa apparently misconstrued</p> <p>8 this information and he sent me an e-mail</p> <p>9 and that's Exhibit 26, this e-mail was</p> <p>10 sent to me on Thursday, at 3:51 p.m. by</p> <p>11 Dr. Firpa, the other individual cc'd on</p> <p>12 this e-mail is Bruce Peterson, Shema</p> <p>13 Patel, Patrick Lento and Karen Tiger</p> <p>14 Paillex.</p> <p>15 I continued with my work for the</p> <p>16 remainder of the day.</p> <p>17 The following day, September 16th,</p> <p>18 I arrived at 9:00 a.m. and continued with</p> <p>19 the work for the day.</p> <p>20 I received an extremely unusual</p> <p>21 e-mail that afternoon from Dr. Firpa which</p> <p>22 made little sense when compared to the</p> <p>23 e-mail he sent to me the day before.</p> <p>24 And this e-mail is exhibit -- one</p> <p>25 of the exhibits from the Department.</p>	<p style="text-align: right;">Page 308</p> <p>1 LEENA VARUGHESE</p> <p>2 Hughes who stated that physician wellness</p> <p>3 committee would like to speak to me.</p> <p>4 Due to these confusing messages and</p> <p>5 e-mails, I called my doctor and asked</p> <p>6 specifically if I could proceed with the</p> <p>7 family medical leave of absence, she's a</p> <p>8 psychiatrist, called to inform me to speak</p> <p>9 to my primary care doctor.</p> <p>10 At that point I took her advice and</p> <p>11 spoke to my primary care physician who has</p> <p>12 known me as a patient for several years.</p> <p>13 I talked with him at length about</p> <p>14 my health and work related stressors.</p> <p>15 After much consideration his opinion was</p> <p>16 that the family medical leave of absence</p> <p>17 is not necessarily warranted.</p> <p>18 He said that if all my concerns</p> <p>19 were due to work related stress, to please</p> <p>20 call the psychiatrist again.</p> <p>21 So I spoke to my psychiatrist again</p> <p>22 and she refused to grant me a leave of</p> <p>23 absence after a lengthy phone conference.</p> <p>24 I did not attempt to leave, I did</p> <p>25 not attempt to obtain a third opinion, at</p>
<p style="text-align: right;">Page 307</p> <p>1 LEENA VARUGHESE</p> <p>2 So this is Exhibit 16 from the</p> <p>3 Department. So e-mail sent the next</p> <p>4 afternoon.</p> <p>5 Which basically the sentiment and</p> <p>6 the tone is completely opposite of the</p> <p>7 e-mail he he sent to me the day before.</p> <p>8 He stated that I needed a doctor's</p> <p>9 note to attend work. He wanted doctor's</p> <p>10 notes for my previous sick days to be in</p> <p>11 the hospital.</p> <p>12 As you are well aware and we have</p> <p>13 discussed this, the HR policy, the</p> <p>14 hospital policy is doctor's notes are only</p> <p>15 required for three consecutive sick days</p> <p>16 or if there is a call coverage issue and</p> <p>17 call is is not covered.</p> <p>18 I received an e-mail from</p> <p>19 Dr. Jordan also stating that this was the</p> <p>20 case.</p> <p>21 Then shortly after I received a</p> <p>22 page, the same day I received a page when</p> <p>23 I was in the hospital I returned that page</p> <p>24 but no one answered and then around 5:30</p> <p>25 p.m. I noted several e-mails from Dr.</p>	<p style="text-align: right;">Page 309</p> <p>1 LEENA VARUGHESE</p> <p>2 this point I resolved myself to having to</p> <p>3 work through this particular situation.</p> <p>4 I did not make any attempts to</p> <p>5 mislead or misrepresent my intentions</p> <p>6 regarding the family medical leave of</p> <p>7 absence to Dr. Firpa, Human Resources,</p> <p>8 physicians wellness committee, medical</p> <p>9 education, Ms. Patel, et cetera.</p> <p>10 In fact, I informed HR, Mr. Robert</p> <p>11 Maglione, who is the administrative</p> <p>12 assistant to Karen Tiger, that my</p> <p>13 physicians have all denied me family</p> <p>14 medical leave of absence. This is on</p> <p>15 Tuesday, around noon.</p> <p>16 In the meantime, they all sent me</p> <p>17 e-mails, left voice mails and so on</p> <p>18 stating that their sentiment regarding my</p> <p>19 right to be at work is that I do not have</p> <p>20 the right to be at work.</p> <p>21 In this particular circumstance I</p> <p>22 felt the best course of action for me was</p> <p>23 to follow hospital policy and be present</p> <p>24 at work unless I was going to take a sick</p> <p>25 day or be not at the hospital if I felt</p>

<p style="text-align: right;">Page 310</p> <p>1 LEENA VARUGHESE</p> <p>2 ill.</p> <p>3 I do have the right to request</p> <p>4 family medical leave of absence for</p> <p>5 personal health problems, I think that the</p> <p>6 Federal Law states that it can be up to 12</p> <p>7 months.</p> <p>8 There are portions that are covered</p> <p>9 by the health insurance or without pay, I</p> <p>10 felt that my request was not unreasonable</p> <p>11 but the communication and befuddlement</p> <p>12 were all a production of Dr. Firpa and Ms.</p> <p>13 Patel.</p> <p>14 This has been a problem for me with</p> <p>15 Dr. Firpa over the past few months and</p> <p>16 this is a discussion that I had already</p> <p>17 had with Dr. Barnett on September 11,</p> <p>18 2011.</p> <p>19 So, going to 6, an incident in Ms.</p> <p>20 Patel's office.</p> <p>21 I spoke to Ms. Patel on September</p> <p>22 19th, 2011 with Ms. Kim Berlin present</p> <p>23 regarding the family medical leave.</p> <p>24 Around 4:30 p.m., Ms. Patel didn't</p> <p>25 verify the date and sign the forms that</p>	<p style="text-align: right;">Page 312</p> <p>1 LEENA VARUGHESE</p> <p>2 She came in soon after and accused</p> <p>3 me of looking at confidential information,</p> <p>4 she stated that everything in her office</p> <p>5 was confidential, at which point I was</p> <p>6 once again bewildered by the incongruency</p> <p>7 of the situation, in regard to -- and her</p> <p>8 disregard of my plans for the day which</p> <p>9 was attending the conference and carry on.</p> <p>10 Anyway, I had no intention of</p> <p>11 rising from my chair and exploring all the</p> <p>12 documents in her office, I simply looked</p> <p>13 at the folder that was in front of me very</p> <p>14 briefly.</p> <p>15 Finally, Ms. Tiger Paillex rang Ms.</p> <p>16 Patel at which point Ms. Patel insisted</p> <p>17 that I walk over to HR office to meet with</p> <p>18 myself, Tiger Paillex, I was effectively</p> <p>19 incredulous at the turn of events and</p> <p>20 summarily dumbfounded by the turn of the</p> <p>21 day.</p> <p>22 Ms. Tiger Paillex wanted</p> <p>23 Mr. Johnson or the GME to attend the</p> <p>24 meeting and waited, wanted me to wait for</p> <p>25 him, however the meeting ensued shortly,</p>
<p style="text-align: right;">Page 311</p> <p>1 LEENA VARUGHESE</p> <p>2 they should have, that the hospital should</p> <p>3 have when she gave me the form an</p> <p>4 9/15/2011.</p> <p>5 The following day I saw Ms. Patel</p> <p>6 at the Starbucks and I said hello to be</p> <p>7 polite and she started being extremely</p> <p>8 confrontational</p> <p>9 she said I cannot attend the</p> <p>10 morning conference at 8:00 a.m, she then</p> <p>11 asked me to go to her office and she</p> <p>12 wouldn't allow me to leave.</p> <p>13 I asked her repeatedly what the</p> <p>14 issue was and whether or not I could</p> <p>15 attend the 8:00 a.m. conference. She kept</p> <p>16 making several phone calls to Ms. Tiger,</p> <p>17 Dr. Firpa and so on.</p> <p>18 While I simply waited there in her</p> <p>19 office. She left the office and stepped</p> <p>20 out for a very long time to assist a young</p> <p>21 man to a nearby office, the door to her</p> <p>22 office was open as I waited there, there</p> <p>23 was a folder on her desk next to where I</p> <p>24 placed my coffee which I leafed through</p> <p>25 with no ulterior motive.</p>	<p style="text-align: right;">Page 313</p> <p>1 LEENA VARUGHESE</p> <p>2 they essentially interrogated me regarding</p> <p>3 my presence at work, then I'm supposed --</p> <p>4 when I'm supposed to see the doctor,</p> <p>5 forced me essentially to speak to Dr.</p> <p>6 Hughes on the physician wellness committee</p> <p>7 and essentially treated me like a</p> <p>8 criminal.</p> <p>9 I managed to maintain my reasonable</p> <p>10 and calm nature and spoke to them.</p> <p>11 I answered all their questions to</p> <p>12 the best of my ability, and also I would</p> <p>13 like to point out that I do have the house</p> <p>14 staff policy manual here and in that the</p> <p>15 family medical leave of absence can be</p> <p>16 foreseeably asked up to 30 days in</p> <p>17 advance, and it can be planned.</p> <p>18 So I believe there isn't a real</p> <p>19 issue with how I communicated with them on</p> <p>20 this particular issue.</p> <p>21 So anyway, in conclusion, I am a</p> <p>22 fourth year resident in the final year of</p> <p>23 training, the most arduous part of the</p> <p>24 pathology residency training is surgical</p> <p>25 pathology rotations or the AP part, where</p>

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Page 314	Page 316
<p>1 LEENA VARUGHESE</p> <p>2 the resident is required to grow, render</p> <p>3 diagnostic information in conjunction with</p> <p>4 attending pathologists.</p> <p>5 To date I have yet to be aware of</p> <p>6 how or where I have mismanaged any case</p> <p>7 that has affected patient's outcome, and I</p> <p>8 have not.</p> <p>9 So many of the attendings that I</p> <p>10 work with say that I have well studied my</p> <p>11 cases usually and I use clinical and</p> <p>12 pathological correlation appropriately to</p> <p>13 render the pathologic diagnosis.</p> <p>14 I was on call many times and</p> <p>15 attendings trust me to render frozen</p> <p>16 section diagnosis independently with their</p> <p>17 approval, many of my evaluations including</p> <p>18 my most recent surgical pathology</p> <p>19 evaluations are very positive.</p> <p>20 I believe that I satisfactorily</p> <p>21 completed all my rotations to this point</p> <p>22 despite the stress, scrutiny and</p> <p>23 hostility directed at me.</p> <p>24 I would like to call witnesses to</p> <p>25 expand on all these points, but I believe</p>	<p>1 LEENA VARUGHESE</p> <p>2 Tuesday, so basically I was sent an</p> <p>3 e-mail by Dr. Firpa stating that okay,</p> <p>4 in the last --</p> <p>5 DR. MARIN: You can let that go.</p> <p>6 DR. VARUGHESE: Here is the</p> <p>7 thing, I'm getting conflicting messages</p> <p>8 from Dr. Firpa, this has exactly been my</p> <p>9 problem.</p> <p>10 DR. MARIN: We read the message</p> <p>11 there was at least one statement that</p> <p>12 was clear in that proposed letter that</p> <p>13 said you were not to come in until that</p> <p>14 was resolved.</p> <p>15 I will just ask one question, it</p> <p>16 was your intention to come in?</p> <p>17 DR. VARUGHESE: It was my</p> <p>18 intention to come into work.</p> <p>19 DR. MARIN: The next question is</p> <p>20 you looked at one of the files, is that</p> <p>21 correct, without question, you were in</p> <p>22 the office, you opened the file that</p> <p>23 didn't belong to you, is that true or</p> <p>24 not true?</p> <p>25 DR. VARUGHESE: That is true.</p>
Page 315	Page 317
<p>1 LEENA VARUGHESE</p> <p>2 the only witness that I have here is Ms.</p> <p>3 Karen Tiger Paillex.</p> <p>4 DR. WEINFELD: You want to call</p> <p>5 the witness?</p> <p>6 DR. VARUGHESE: Yes.</p> <p>7 MR. McEVOY: No questions.</p> <p>8 DR. MARIN: I would like to ask</p> <p>9 some brief questions.</p> <p>10 It came to me as I was listening to</p> <p>11 you that the issue when you were in</p> <p>12 Starbucks you had received prior to that</p> <p>13 you had received a statement you were not</p> <p>14 to return to work.</p> <p>15 When you were in Starbucks, were</p> <p>16 you planning on coming back into the</p> <p>17 hospital or were you just happened to be</p> <p>18 at Starbucks and then you were recruited</p> <p>19 to come to Ms. Patel's office?</p> <p>20 Was it your intention to come into</p> <p>21 the hospital that day?</p> <p>22 DR. VARUGHESE: Yes.</p> <p>23 DR. BRONHEIM: Even though you</p> <p>24 were told to leave?</p> <p>25 DR. VARUGHESE: Well, this is</p>	<p>1 LEENA VARUGHESE</p> <p>2 DR. MARIN: What did the file</p> <p>3 say?</p> <p>4 DR. VARUGHESE: I wasn't trying</p> <p>5 to find anything.</p> <p>6 DR. MARIN: I understand, but</p> <p>7 what did you see?</p> <p>8 DR. VARUGHESE: I don't -- I</p> <p>9 didn't even really read anything.</p> <p>10 DR. MARIN: Did you think it was</p> <p>11 wrong that you did that?</p> <p>12 And do you think it was wrong now?</p> <p>13 At the time was it wrong and do you</p> <p>14 think you were wrong at this time?</p> <p>15 DR. VARUGHESE: I wasn't trying</p> <p>16 to look at confidential information.</p> <p>17 DR. MARIN: I'm not asking you</p> <p>18 that.</p> <p>19 Do you think that having done that,</p> <p>20 looked at that file at the time was wrong</p> <p>21 and now after consideration do you think</p> <p>22 it's wrong today?</p> <p>23 DR. VARUGHESE: I mean at the</p> <p>24 time I didn't think I was doing anything</p> <p>25 wrong.</p>

<p style="text-align: right;">Page 318</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. MARIN: Okay, how about</p> <p>3 today?</p> <p>4 DR. VARUGHESE: Today, now that I</p> <p>5 know it's confidential information --</p> <p>6 DR. MARIN: No, no, you are in</p> <p>7 someone else's office you open up a file</p> <p>8 on their desk, is that wrong or is that</p> <p>9 not wrong?</p> <p>10 DR. BRONHEIM: Okay, that's an</p> <p>11 answer.</p> <p>12 DR. WEINFELD: Why don't we --</p> <p>13 DR. MARIN: I have one more</p> <p>14 question, you mentioned, and this is</p> <p>15 very important, during your description</p> <p>16 here you said you had this altercation</p> <p>17 with the Chief Resident, and you</p> <p>18 specifically said and it went into the</p> <p>19 record, that you were physically abused</p> <p>20 by that Chief Resident.</p> <p>21 Is that what you meant to say, or</p> <p>22 would you retract that statement?</p> <p>23 DR. VARUGHESE: I didn't say</p> <p>24 that.</p> <p>25 DR. MARIN: You did say that.</p>	<p style="text-align: right;">Page 320</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. VARUGHESE: Well,</p> <p>3 Dr. Peterson is my advisor.</p> <p>4 DR. MARIN: Is there someone who</p> <p>5 you feel would be your confidante and</p> <p>6 would rise to your defense in the</p> <p>7 context of all the things that have</p> <p>8 happened?</p> <p>9 DR. VARUGHESE: I think most</p> <p>10 people can.</p> <p>11 DR. MARIN: I'm asking not most</p> <p>12 people, I'm asking you and I'm asking</p> <p>13 for is there one person.</p> <p>14 DR. VARUGHESE: Who wouldn't</p> <p>15 defend me and I think at that point you</p> <p>16 can call in any other people.</p> <p>17 DR. MARIN: I didn't ask you that</p> <p>18 question, I asked you is there a single</p> <p>19 person in the Department who you could</p> <p>20 go to who would rise and defend you in</p> <p>21 the context of what's happening after</p> <p>22 four years in the Department.</p> <p>23 DR. VARUGHESE: Yes.</p> <p>24 DR. MARIN: Who would that be?</p> <p>25 DR. VARUGHESE: There would be</p>
<p style="text-align: right;">Page 319</p> <p>1 LEENA VARUGHESE</p> <p>2 You may not have meant to say it, that's</p> <p>3 what I want to clarify.</p> <p>4 DR. VARUGHESE: Physically.</p> <p>5 DR. MARIN: Physically, you were</p> <p>6 you were stating that you were</p> <p>7 physically intimidated.</p> <p>8 DR. VARUGHESE: Yes.</p> <p>9 That means following me around</p> <p>10 pointing at me, with very little --</p> <p>11 DR. MARIN: Did he place his</p> <p>12 hands on you? Did he hit you or did you</p> <p>13 at any point feel threatened.</p> <p>14 DR. VARUGHESE: Yes, I did feel</p> <p>15 threatened, yes.</p> <p>16 DR. MARIN: My last question is</p> <p>17 in the entire Department of Pathology,</p> <p>18 is there any attending in the Pathology</p> <p>19 Department that you could call upon who</p> <p>20 would be your mentor or your advocate in</p> <p>21 these proceedings now or that you find</p> <p>22 as a friend and a close confidante,</p> <p>23 after four years in the Department?</p> <p>24 DR. VARUGHESE: Yes.</p> <p>25 DR. MARIN: Who would that be?</p>	<p style="text-align: right;">Page 321</p> <p>1 LEENA VARUGHESE</p> <p>2 several.</p> <p>3 DR. WEINFELD: Just name one,</p> <p>4 that's all we ask.</p> <p>5 DR. VARUGHESE: All right, well I</p> <p>6 can say Dr. Lamp from the Bronx VA.</p> <p>7 DR. MARIN: Thank you.</p> <p>8 DR. ROCCO: I have one question.</p> <p>9 So you've been accused of many things</p> <p>10 today and you've kind of gone through</p> <p>11 them and we listened to your</p> <p>12 explanation, I just want to know out of</p> <p>13 all of the things in terms of your</p> <p>14 actions, do you take responsibility or</p> <p>15 do you feel remorse involving any of the</p> <p>16 things that you've talked about, if you</p> <p>17 just think about your own actions?</p> <p>18 DR. VARUGHESE: Is there a</p> <p>19 particular --</p> <p>20 DR. ROCCO: Is there anything</p> <p>21 that you feel you know what, I was wrong</p> <p>22 on this case and I kind of take</p> <p>23 responsibility for that, out of all of</p> <p>24 the incidents that we heard today?</p> <p>25 Like missing call?</p>

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<p style="text-align: right;">Page 322</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. VARUGHESE: I didn't miss</p> <p>3 call. Various.</p> <p>4 DR. ROCCO: Any of the things</p> <p>5 that have been brought up today, any?</p> <p>6 DR. VARUGHESE: Well, I never</p> <p>7 missed call.</p> <p>8 DR. ROCCO: That was just one</p> <p>9 example, anything.</p> <p>10 DR. BRONHEIM: Do you think you</p> <p>11 should have seen a psychiatrist and</p> <p>12 taken medical leave?</p> <p>13 DR. VARUGHESE: What?</p> <p>14 DR. BRONHEIM: Do you think you</p> <p>15 should have taken medical leave and seen</p> <p>16 a psysciatrist as recommended?</p> <p>17 DR. VARUGHESE: That's what I was</p> <p>18 trying to do.</p> <p>19 DR. BRONHEIM: When?</p> <p>20 DR. VARUGHESE: When I asked for</p> <p>21 the medical leave of absence.</p> <p>22 DR. BRONHEIM: But you didn't see</p> <p>23 somebody.</p> <p>24 DR. VARUGHESE: I did, I spoke to</p> <p>25 the psychiatrist that I was seeing and</p>	<p style="text-align: right;">Page 324</p> <p>1 LEENA VARUGHESE</p> <p>2 the reason was that I came to see you on</p> <p>3 Tuesday, for the family, this wasn't on Tuesday</p> <p>4 morning, Shema Patel called you?</p> <p>5 A The last time I met with you?</p> <p>6 Q Yes.</p> <p>7 A Shema called me because the</p> <p>8 Department had met with you, you had told them</p> <p>9 that you were not able to work, that you were</p> <p>10 not feeling well, you had taken a couple of</p> <p>11 days off prior and the Department allowed you</p> <p>12 the time to get off, that your well-being was</p> <p>13 most important and that you see your physician.</p> <p>14 They gave you the time off on</p> <p>15 that Tuesday, they found out after numerous</p> <p>16 e-mails and calls that you didn't respond to,</p> <p>17 that you were actually working in the</p> <p>18 Department during the days even though the</p> <p>19 Department had given you off.</p> <p>20 So they asked me to meet with</p> <p>21 you for a couple of reasons, one being that</p> <p>22 they were concerned about your well-being and</p> <p>23 wanted to know about your FMLA status.</p> <p>24 One being that they were</p> <p>25 constantly contacting you and you weren't being</p>
<p style="text-align: right;">Page 323</p> <p>1 LEENA VARUGHESE</p> <p>2 she just felt given the circumstances</p> <p>3 and she was aware of the surrounding</p> <p>4 situation and the story, she didn't feel</p> <p>5 comfortable given a family medical leave</p> <p>6 of absence.</p> <p>7 DR. LEITER: She was seeing</p> <p>8 someone outside of the hospital.</p> <p>9 DR. WEINFELD: We will have an</p> <p>10 opportunity to do this if we need, why</p> <p>11 don't we bring our witness in.</p> <p>12 Let's do that and then we can</p> <p>13 proceed.</p> <p>14</p> <p>15 CARYN TIGER PAILLEX,</p> <p>16 called as a witness, having been first</p> <p>17 duly sworn by the Notary Public, was</p> <p>18 examined and testified as follows:</p> <p>19</p> <p>20 DR. WEINFELD: Dr. Varughese, go</p> <p>21 ahead.</p> <p>22</p> <p>23 DIRECT EXAMINATION BY DR. VARUGHESE:</p> <p>24</p> <p>25 Q So, can you please describe what</p>	<p style="text-align: right;">Page 325</p> <p>1 LEENA VARUGHESE</p> <p>2 responsive.</p> <p>3 And you were showing up to work</p> <p>4 even though they asked you not to, until you</p> <p>5 had medical documentation.</p> <p>6 And that you were in Shema's</p> <p>7 office and when she left you in her office you</p> <p>8 were going through files on her desk.</p> <p>9 So I asked to meet with you to</p> <p>10 follow up with those issues.</p> <p>11 Q What is the hospital policy</p> <p>12 regarding the Family Medical Leave Act?</p> <p>13 A What is?</p> <p>14 Q Can I plan that in advance? Can</p> <p>15 I request, can I foresee that I may need a</p> <p>16 family medical leave of absence?</p> <p>17 A Sure, that's what you did and</p> <p>18 you were provided the documentation, but you</p> <p>19 continued to come to work and the reason why</p> <p>20 you were asked not to come to work is because</p> <p>21 you were saying that you weren't feeling well</p> <p>22 and you weren't feeling well enough to work,</p> <p>23 that's why they not only -- the Department not</p> <p>24 only asked you if you had an appointment with</p> <p>25 your doctor, but they also offered to get an</p>

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1 LEENA VARUGHESE
 2 appointment because you had told them that you
 3 weren't going to be able to get a doctor's
 4 appointment until the following week.
 5 When I met with you that
 6 Tuesday, you had told me that you went to your
 7 psychiatrist the week before and they wouldn't
 8 grant you a family leave and they told you to
 9 go see your primary care physician.
 10 And you were going to see your
 11 primary care physician that afternoon.
 12 During that same meeting I asked
 13 you if you got ahold of Dr. Dan Hughes because
 14 he was trying to reach out to you, and you said
 15 no, because you didn't want to deal with him.
 16 We explained to you that he was
 17 part of physicians wellness and you needed to
 18 reach out to him, and we actually called him,
 19 if you recall, in my office and had the two of
 20 you talk and actually scheduled an appointment
 21 for that Thursday to follow up.
 22 **Q So here is the thing Dr. Firpa**
 23 **sent me an e-mail on Thursday at 3:51 p.m.**
 24 **basically saying what the circumstances were**
 25 **regarding the sick day and how he understood.**

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1 LEENA VARUGHESE
 2 **In fact, let me just quote him**
 3 **here.**
 4 DR. MARIN: You will have to have
 5 a question.
 6 DR. WEINFELD: Are you coming to
 7 a question?
 8 DR. BRONHEIM: You can sum up
 9 later.
 10 DR. WEINFELD: Are you coming to
 11 a question?
 12 DR. VARUGHESE: Yes.
 13 **Q So basically he says that I'm**
 14 **sorry you could not get an appointment with**
 15 **your physician sooner than next week.**
 16 **Since your health is paramount**
 17 **to all of us, please meet with Dr. Peterson and**
 18 **discuss the situation candidly.**
 19 **And he also says, just referring**
 20 **to the family medical leave, as you asked of**
 21 **me, I will wait to inform the Chief Residents**
 22 **to remove from the rotation schedule until you**
 23 **obtain and provide this doctor's note and I**
 24 **think Dr. Firpa is referring to the family**
 25 **medical leave having that form filled out by my**

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1 LEENA VARUGHESE
 2 **doctor?**
 3 A The paperwork.
 4 **Q The paperwork before he**
 5 **instructs anybody that I'm not going to be in**
 6 **the hospital.**
 7 DR. WEINFELD: So what's the
 8 question?
 9 **Q So, were you surprised that now**
 10 **I don't have this document yet, but everybody**
 11 **is asking me not to be at work?**
 12 A Am I surprised at what?
 13 **Q Like why is that, why is**
 14 **everyone asking me?**
 15 **I mean I am well, I am**
 16 **interacting with my mentor, I am signing out**
 17 **all the cases without any mistakes and this is**
 18 **Thursday, Friday, Monday, Tuesday, so what do**
 19 **you think, why do you think people are saying**
 20 **that I shouldn't be, after understanding what I**
 21 **conveyed, saying that, you know, now I'm here,**
 22 **you know, I will have to get a doctor's note in**
 23 **the future, and Dr. Firpa had understood that,**
 24 **then going back and claiming that I'm not well**
 25 **enough now and I need to get a doctor's note in**

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1 LEENA VARUGHESE
 2 **order to be on the floor on I guess Monday was**
 3 **and then Tuesday?**
 4 DR. WEINFELD: So what's the
 5 question for Ms. Tiger?
 6 **Q So do you think that's a**
 7 **reasonable thing to do?**
 8 A You are asking my opinion on
 9 whether or not I think?
 10 **Q I am asking you like what is the**
 11 **protocol for something like that?**
 12 A I think if the Department, if
 13 you tell the Department that you do not feel
 14 well enough to work, they should and did try to
 15 make every effort to get you to a doctor to
 16 help you.
 17 DR. WEINFELD: Could I interrupt
 18 you for a second. I'm not sure it's
 19 clear what your official position is at
 20 Mount Sinai, so I would like to ask what
 21 your position is in Mount Sinai.
 22 THE WITNESS: My position is
 23 Director of Human Resources for the
 24 School of Medicine.
 25 **Q I met with you on Tuesday**

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<p style="text-align: right;">Page 330</p> <p>1 LEENA VARUGHESE</p> <p>2 morning and what did you think of -- you spoke</p> <p>3 to me and we had a one hour long conversation</p> <p>4 with you, me and Mr. Johnson, so did you think</p> <p>5 that I was so ill that I couldn't at work?</p> <p>6 A I'm not a physician, so I can't</p> <p>7 answer whether or not you are ill.</p> <p>8 So --</p> <p>9 Q So the hospital policy is I can</p> <p>10 foresee a family medical leave absence or a</p> <p>11 leave of absence for up to 30 days in advance,</p> <p>12 right, and I can take the time I need to come</p> <p>13 up with the documentation?</p> <p>14 A I don't understand your</p> <p>15 question.</p> <p>16 Q The Human Resources policy --</p> <p>17 DR. MARIN: I think we have</p> <p>18 already established that's well</p> <p>19 documented in the hospital policies, we</p> <p>20 don't need to go through it again.</p> <p>21 Q So the HR policy on sick days,</p> <p>22 it's after three days that I have to bring a</p> <p>23 doctor's note?</p> <p>24 After three days?</p> <p>25 A In the house staff manual?</p>	<p style="text-align: right;">Page 332</p> <p>1 LEENA VARUGHESE</p> <p>2 A I don't think your claim was on</p> <p>3 the academic advisement, I think it was on</p> <p>4 harassment.</p> <p>5 And I investigated the</p> <p>6 harassment claim and issued a decision.</p> <p>7 In my findings --</p> <p>8 Q At what point?</p> <p>9 A Sometime in April.</p> <p>10 Q Sometime in April?</p> <p>11 A Yes.</p> <p>12 DR. WEINFELD: Who gets a copy of</p> <p>13 that decision?</p> <p>14 THE WITNESS: Of the?</p> <p>15 DR. WEINFELD: It says the</p> <p>16 findings of the grievance.</p> <p>17 THE WITNESS: I sent Dr.</p> <p>18 Varughese a copy of my decision and the</p> <p>19 Department was made aware of my</p> <p>20 decision.</p> <p>21 DR. BRONHEIM: Can you tell us</p> <p>22 what it was?</p> <p>23 THE WITNESS: I did not find</p> <p>24 harassment.</p> <p>25 DR. BRONHEIM: By Dr. Najfeld?</p>
<p style="text-align: right;">Page 331</p> <p>1 LEENA VARUGHESE</p> <p>2 Q Yes.</p> <p>3 A I would have to check.</p> <p>4 Q I don't think it's in the house</p> <p>5 staff manual, it's in a different manual.</p> <p>6 So it's basically three days</p> <p>7 unless it's call, so there is no real reason to</p> <p>8 ask me to bring a doctor's note.</p> <p>9 DR. BRONHEIM: That's different</p> <p>10 from being asked by your Department to</p> <p>11 take a leave.</p> <p>12 You are asking about the medical</p> <p>13 illness like the flue versus your being</p> <p>14 formally asked by letter to take a leave,</p> <p>15 that's a different, those are different</p> <p>16 issues.</p> <p>17 DR. VARUGHESE: Well, I requested</p> <p>18 a leave, they were not asking me to take</p> <p>19 a leave.</p> <p>20 DR. BRONHEIM: Okay.</p> <p>21 Q So I filed a grievance with you</p> <p>22 in December sometime regarding the academic</p> <p>23 advisement and you never -- when did you get</p> <p>24 back to me about the findings related to that</p> <p>25 particular complaint?</p>	<p style="text-align: right;">Page 333</p> <p>1 LEENA VARUGHESE</p> <p>2 THE WITNESS: Yes.</p> <p>3 DR. WEINFELD: I have a question,</p> <p>4 Dr. Varughese said that she never heard</p> <p>5 back and you are saying that a decision</p> <p>6 was sent to her and to the Department?</p> <p>7 THE WITNESS: Right, we actually</p> <p>8 met and I met with her to discuss my</p> <p>9 findings and then I gave her a</p> <p>10 formalized letter.</p> <p>11 DR. WEINFELD: Does that jog your</p> <p>12 memory at all?</p> <p>13 DR. VARUGHESE: Yes, I was being</p> <p>14 continued on academic advisement I had</p> <p>15 to go through the physician wellness</p> <p>16 committee, all these things were</p> <p>17 happening and I was just getting more</p> <p>18 and more worried and then finally I</p> <p>19 reached out to Karen, Ms. Tiger because</p> <p>20 I felt like I didn't know what their</p> <p>21 findings were, and I'm still on all</p> <p>22 these actions were taken against me and</p> <p>23 there is nothing is resolved and this</p> <p>24 keeps continuing onward and onward.</p> <p>25 DR. WEINFELD: The question was</p>

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<p style="text-align: right;">Page 334</p> <p>1 LEENA VARUGHESE</p> <p>2 did you receive a response.</p> <p>3 DR. VARUGHESE: I contacted her</p> <p>4 then she gave me --</p> <p>5 DR. WEINFELD: Did you --</p> <p>6 DR. VARUGHESE: Yes, she gave me</p> <p>7 a document stating that that was her</p> <p>8 finding at that point, a month before.</p> <p>9 DR. WEINFELD: Any other</p> <p>10 questions for Ms. Tiger Paillex?</p> <p>11 DR. VARUGHESE: No.</p> <p>12 DR. WEINFELD: Any questions from</p> <p>13 the Department of Pathology?</p> <p>14 DR. FIRPA: No.</p> <p>15 DR. WEINFELD: Questions from the</p> <p>16 Committee?</p> <p>17 Thank you for staying.</p> <p>18 DR. WEINFELD: Dr. Varughese, any</p> <p>19 other witnesses you would like to call?</p> <p>20 DR. VARUGHESE: Well, I don't</p> <p>21 think anyone else is out there, so --</p> <p>22 DR. WEINFELD: Do you need more</p> <p>23 time to coordinate witnesses? I mean to</p> <p>24 present additional evidence on your</p> <p>25 behalf?</p>	<p style="text-align: right;">Page 336</p> <p>1 LEENA VARUGHESE</p> <p>2 would like one, we can certainly do it.</p> <p>3 DR. WEINFELD: We would have</p> <p>4 liked it four hours ago, but if you</p> <p>5 would like it you can have one now, too,</p> <p>6 it's okay.</p> <p>7 MR. McEVOY: Dr. Varughese gets</p> <p>8 to go first.</p> <p>9 DR. WEINFELD: Do you want to</p> <p>10 make any concluding remarks?</p> <p>11 DR. VARUGHESE: Yes, I would like</p> <p>12 to make concluding remarks.</p> <p>13 So basically all the points listed</p> <p>14 in the summary suspension termination</p> <p>15 letter were not previously mentioned to me</p> <p>16 as possible reasons for termination.</p> <p>17 While I was on a final warning,</p> <p>18 meaning disciplinary due to issues prior</p> <p>19 to either Dr. Cordone-Cardo or Dr. Firpa's</p> <p>20 arrival, I feel that they have played a</p> <p>21 major role in what has happened, and for</p> <p>22 these reasons I feel that the actions</p> <p>23 taken against me were both arbitrary and</p> <p>24 capricious.</p> <p>25 And, in fact, the way it was</p>
<p style="text-align: right;">Page 335</p> <p>1 LEENA VARUGHESE</p> <p>2 DR. LEITER: Did you want to</p> <p>3 summarize or say anything else?</p> <p>4 DR. WEINFELD: We are not there</p> <p>5 yet.</p> <p>6 DR. VARUGHESE: Can you give me a</p> <p>7 minute?</p> <p>8 DR. WEINFELD: Sure.</p> <p>9 Anything further, Dr. Varughese,</p> <p>10 that you want, any further witnesses?</p> <p>11 DR. VARUGHESE: I mean I don't</p> <p>12 think I want to call -- I had a witness</p> <p>13 list but no one is here, so I think I</p> <p>14 would just like to conclude the hearing.</p> <p>15 DR. WEINFELD: I just wanted to</p> <p>16 ask, if you have any objection to the</p> <p>17 proceedings that took place today,</p> <p>18 anything that -- the conduction of this</p> <p>19 hearing that you want to put on record?</p> <p>20 DR. VARUGHESE: No.</p> <p>21 DR. WEINFELD: Okay, any closing</p> <p>22 statements, concluding remarks by either</p> <p>23 Dr. Varughese or Department of</p> <p>24 Pathology?</p> <p>25 MR. McEVOY: If the Committee</p>	<p style="text-align: right;">Page 337</p> <p>1 LEENA VARUGHESE</p> <p>2 conducted by asking Dr. Firpa, Tiger</p> <p>3 Paillex, having several security personnel</p> <p>4 while all the residents were in the</p> <p>5 residents room and I was being essentially</p> <p>6 asked to leave the premises while I wasn't</p> <p>7 doing anything wrong, other than being at</p> <p>8 work and as approved by both my</p> <p>9 physicians.</p> <p>10 So I did what I could, I calmly</p> <p>11 collected my things from my desk and I was</p> <p>12 escorted by security and I left the</p> <p>13 hospital.</p> <p>14 In the past I have worked with good</p> <p>15 faith with my superiors, including Dr.</p> <p>16 Lento, but I feel that he has been very</p> <p>17 dishonest and not very forthright in his</p> <p>18 dealings with me in the past year.</p> <p>19 I have also been suspended and</p> <p>20 terminated in my final year as I prepare</p> <p>21 to take my Board examination, including</p> <p>22 having paid for the Ossler course out of</p> <p>23 my own pocket and the Department is paying</p> <p>24 for everybody else.</p> <p>25 So I do believe that I am treated</p>

<p style="text-align: right;">Page 338</p> <p>1 LEENA VARUGHESE</p> <p>2 unfairly on a daily basis and, in fact,</p> <p>3 once again these actions are very</p> <p>4 arbitrary and capricious, and although I</p> <p>5 don't have a lawyer here, I do have legal</p> <p>6 counsel who advises me and I will have to</p> <p>7 take whatever actions I need to.</p> <p>8 But I felt this was a peer-to-peer</p> <p>9 review Committee and I feel very</p> <p>10 comfortable and calm that the Committee is</p> <p>11 competent and I don't need to have legal</p> <p>12 counsel, per se.</p> <p>13 And finally, in conclusion, I</p> <p>14 basically I worked with the Department of</p> <p>15 Pathology and the pathology residency</p> <p>16 program at Mount Sinai Hospital, I</p> <p>17 performed all my duties to my most</p> <p>18 capability and very competently.</p> <p>19 I have attempted to reconcile my</p> <p>20 differences with the former director, Dr.</p> <p>21 Lento and I also feel that I have had to</p> <p>22 attend and I have also tried to attend</p> <p>23 therapy for related stressors, et cetera,</p> <p>24 due to this particular -- due to</p> <p>25 specifically what's happening.</p>	<p style="text-align: right;">Page 340</p> <p>1 LEENA VARUGHESE</p> <p>2 In the interests of time I would</p> <p>3 request the Committee's permission to make</p> <p>4 the closing statement on behalf of the</p> <p>5 Department.</p> <p>6 DR. WEINFELD: Okay.</p> <p>7 MR. McEVOY: First of all, I just</p> <p>8 want to refocus the Committee on the</p> <p>9 fact that at least it's the Department's</p> <p>10 position that the period of time we are</p> <p>11 looking at here is between the final</p> <p>12 warning and the discharge, roughly a</p> <p>13 period of about two months, from July</p> <p>14 15th to September 21st of 2011.</p> <p>15 And you have heard testimony from</p> <p>16 the witnesses for the department on all of</p> <p>17 the incidents that form the basis of the</p> <p>18 decision to terminate Dr. Varughese.</p> <p>19 And you have heard Dr. Varughese</p> <p>20 essentially say none of that is true,</p> <p>21 everybody is wrong, everybody is out to</p> <p>22 get me.</p> <p>23 I don't think it serves any of our</p> <p>24 interests or purpose for me to go through</p> <p>25 each of those incidents in detail to</p>
<p style="text-align: right;">Page 339</p> <p>1 LEENA VARUGHESE</p> <p>2 And I had also previously requested</p> <p>3 a transfer as PGY 2 and even as a PGY 3</p> <p>4 with Dr. Lento because I felt that it may</p> <p>5 be too -- given the circumstances it may</p> <p>6 be difficult for me.</p> <p>7 DR. WEINFELD: Transfer to what?</p> <p>8 DR. VARUGHESE: To a different</p> <p>9 program, however I felt that I could</p> <p>10 successfully complete the training given</p> <p>11 a fair opportunity to do so and by</p> <p>12 removing the ambivalent, arbitrary and</p> <p>13 capricious actions taken against me over</p> <p>14 the past year.</p> <p>15 Since my formal complaint with</p> <p>16 Samuel McCash inherently committed his</p> <p>17 harassing actionings, so basically I just</p> <p>18 wanted to be treated fairly, I want to do</p> <p>19 my job and I just want to graduate and go</p> <p>20 on with my life.</p> <p>21 DR. WEINFELD: Thank you.</p> <p>22 DR. VARUGHESE: Thank you.</p> <p>23 MR. McEVOY: I think the rules</p> <p>24 permit counsel to make the closing</p> <p>25 statement.</p>	<p style="text-align: right;">Page 341</p> <p>1 LEENA VARUGHESE</p> <p>2 explain why what Dr. Varughese says is</p> <p>3 demonstrably not true, you have heard it,</p> <p>4 you can read her self-assessment and</p> <p>5 decide for yourselves whether it is really</p> <p>6 what she says it is, or what Dr.</p> <p>7 Cordone-Cardo says it is.</p> <p>8 You can read the e-mails that show</p> <p>9 that Dr. Varughese insists that she e-mail</p> <p>10 the presentation to Dr. Najfeld on Friday,</p> <p>11 but the e-mail shows it's on Monday, there</p> <p>12 are so many of those that I wouldn't even</p> <p>13 know where to start, and it would take me</p> <p>14 a long time to finish.</p> <p>15 But the short answer is that in</p> <p>16 order to believe Dr. Varughese' version of</p> <p>17 all of these incidents, you have to</p> <p>18 disbelieve every witness who testified on</p> <p>19 behalf of the Department.</p> <p>20 That Dr. Cordone-Cardo, Dr. Firpa,</p> <p>21 to Dr. Najfeld to Dr. Jordan to</p> <p>22 Dr. Morency to Dr. Lento to Mr. Johnson to</p> <p>23 Ms. Patel, have all made this up out of</p> <p>24 hole cloth that none of these things</p> <p>25 happened, even though Dr. Varughese kind</p>

<p style="text-align: right;">Page 342</p> <p>1 LEENA VARUGHESE</p> <p>2 of ultimately admits well, I did sort of</p> <p>3 flip through a file, but can't bring</p> <p>4 herself to say that that's wrong.</p> <p>5 Can't bring herself to acknowledge</p> <p>6 that that was something she shouldn't have</p> <p>7 done, and that really is the point of all</p> <p>8 of this.</p> <p>9 The events that took place in a six</p> <p>10 or eight or ten week period more than</p> <p>11 justify the decision to terminate somebody</p> <p>12 who is on final warning.</p> <p>13 But the real problem I think is</p> <p>14 that Dr. Varughese is unable to accept the</p> <p>15 fact that she bears any responsibility for</p> <p>16 any of this.</p> <p>17 That she did anything wrong, that</p> <p>18 anything that she was told to do or asked</p> <p>19 to do or was instructed to do is</p> <p>20 reasonable or fair and what it really</p> <p>21 comes down to is Dr. Varughese wants to</p> <p>22 set her own rules.</p> <p>23 This is the -- she feels free to</p> <p>24 ignore her program director, she feels</p> <p>25 free to ignore her Chief Residents, she</p>	<p style="text-align: right;">Page 344</p> <p>1 LEENA VARUGHESE</p> <p>2 You don't get to not respond to</p> <p>3 pages, you don't get to not respond to</p> <p>4 e-mails.</p> <p>5 When Dr. Firpa tells you don't come</p> <p>6 to work, there are ways to have recourse</p> <p>7 for that, too, but you can't ignore it and</p> <p>8 just show up for work.</p> <p>9 Dr. Varughese never contacted Dr.</p> <p>10 Firpa and said I want to come to work, I</p> <p>11 think I'm well enough to come to work,</p> <p>12 reassess your view.</p> <p>13 She just showed up. She never</p> <p>14 talked to anybody about that, she follows</p> <p>15 her own set of rules and marches to her</p> <p>16 own drum.</p> <p>17 Unfortunately, those set of rules</p> <p>18 are not Mount Sinai's set of rules and</p> <p>19 they are certainly not the Department of</p> <p>20 Pathology's set of rules, so there is</p> <p>21 really little doubt here that given where</p> <p>22 she started from, the final warning, given</p> <p>23 what took place, and her inability to</p> <p>24 recognize that in any shape, manner or</p> <p>25 form, she bears some responsibility.</p>
<p style="text-align: right;">Page 343</p> <p>1 LEENA VARUGHESE</p> <p>2 feels free to ignore her Chair, to ignore</p> <p>3 the instructions of Dr. Firpa, just</p> <p>4 because that's what she wants to do.</p> <p>5 I don't know what the reason for</p> <p>6 that is, I'm not sure it matters what the</p> <p>7 reason for that is, but what it tells us</p> <p>8 all is that there is no reasonable</p> <p>9 expectation that if this Committee put her</p> <p>10 back to work, that anything would change,</p> <p>11 that she would be able to comply with the</p> <p>12 rules and regulations of the program.</p> <p>13 You know, my mother had an</p> <p>14 expression when I was a kid and she said</p> <p>15 not everybody is out of step in the army</p> <p>16 but you.</p> <p>17 And in Dr. Varughese' army</p> <p>18 everybody is out of the step in the army</p> <p>19 but her; it doesn't work that way.</p> <p>20 When you go to work and your</p> <p>21 program director tells you to do</p> <p>22 something, you do it.</p> <p>23 There are recourses if you disagree</p> <p>24 with it, if you think it's unfair, but you</p> <p>25 don't get to ignore it.</p>	<p style="text-align: right;">Page 345</p> <p>1 LEENA VARUGHESE</p> <p>2 The question that she was asked,</p> <p>3 did you do anything wrong?</p> <p>4 Is there anything here that you</p> <p>5 take any responsibility for?</p> <p>6 The answer is no.</p> <p>7 And that really is the point, she</p> <p>8 takes responsibility for nothing. She</p> <p>9 blames everyone else for her problems,</p> <p>10 there is no evidence that anyone is</p> <p>11 responsible for her problems, that anyone</p> <p>12 was out to get her, that anyone had</p> <p>13 treated her unfairly.</p> <p>14 To the contrary, the evidence shows</p> <p>15 everybody bent over backwards to treat her</p> <p>16 fairly, to give her another chance to let</p> <p>17 her succeed and she quite frankly</p> <p>18 sabotaged herself, she hasn't followed the</p> <p>19 rules this Committee set down, she hasn't</p> <p>20 followed the rules pretty much from the</p> <p>21 day she got here.</p> <p>22 So now it's too late, quite</p> <p>23 frankly, for her to come before the</p> <p>24 Committee and say all this is unfair give</p> <p>25 me another chance.</p>

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1 LEENA VARUGHESE
 2 She's had any number of chances,
 3 she hasn't taken advantage of those
 4 chances, by no stretch of the imagination
 5 can anyone come to the conclusion it was
 6 arbitrary and capricious for Dr.
 7 Cordone-Cardo and for Dr. Firpa to decide
 8 that there was no recourse left but to
 9 terminate here her.

10 They consulted with GME at all the
 11 appropriate steps, they consulted with
 12 Human Resources at all the appropriate
 13 steps, I think the only conclusion the
 14 Committee can reach is that there is no
 15 basis to conclude that it was arbitrary
 16 and capricious to terminate Dr. Varughese.

17 Thank you.

18 DR. WEINFELD: Well, I want to
 19 thank everyone for staying to this late
 20 hour and appreciate everyone's efforts.

21 We are adjourned.
 22
 23
 24
 25

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1 LEENA VARUGHESE

2
 3 C E R T I F I C A T E
 4
 5

6 I, STEPHEN J. MOORE, a Shorthand
 7 Reporter and Notary Public of the State of
 8 New York, do hereby certify:
 9

10 That, the Proceedings
 11 hereinbefore set forth is a true and
 12 accurate record of the Hearing.
 13

14 I further certify that I am not
 15 related to any of the parties to this
 16 action by blood or marriage; and that I am
 17 in no way interested in the outcome of
 18 this matter.
 19

20 STEPHEN J. MOORE, CRR
 21
 22
 23
 24
 25

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